

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE NO. 2 FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 308
94TH GENERAL ASSEMBLY
2007

1150S.08T

AN ACT

To repeal sections 317.001, 317.006, 317.011, 317.013, 317.015, 317.018, 327.011, 327.111, 327.181, 327.201, 327.291, 327.441, 327.633, 331.010, 334.120, 335.016, 335.036, 335.066, 335.068, 335.076, 335.096, 335.097, 335.212, 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.090, 336.140, 336.160, 336.200, 336.220, 336.225, 337.600, 337.603, 337.604, 337.606, 337.609, 337.612, 337.615, 337.618, 337.622, 337.624, 337.627, 337.630, 337.636, 337.639, 337.650, 337.653, 337.659, 337.665, 337.668, 337.674, 337.677, 337.680, 337.686, 337.689, 337.700, 337.715, 337.718, 339.100, 345.015, 345.030, 345.045, 345.055, 346.015, 346.030, 346.035, 346.055, 346.060, 346.110, 383.130, 383.133, and 621.045, RSMo, and to enact in lieu thereof ninety-nine new sections relating to the practice of certain licensed professionals, with penalty provisions and an effective date for certain sections.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 317.001, 317.006, 317.011, 317.013, 317.015, 317.018,
2 327.011, 327.111, 327.181, 327.201, 327.291, 327.441, 327.633, 331.010, 334.120,
3 335.016, 335.036, 335.066, 335.068, 335.076, 335.096, 335.097, 335.212, 336.010,
4 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.090, 336.140,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

5 336.160, 336.200, 336.220, 336.225, 337.600, 337.603, 337.604, 337.606, 337.609,
6 337.612, 337.615, 337.618, 337.622, 337.624, 337.627, 337.630, 337.636, 337.639,
7 337.650, 337.653, 337.659, 337.665, 337.668, 337.674, 337.677, 337.680, 337.686,
8 337.689, 337.700, 337.715, 337.718, 339.100, 345.015, 345.030, 345.045, 345.055,
9 346.015, 346.030, 346.035, 346.055, 346.060, 346.110, 383.130, 383.133, and
10 621.045, RSMo, are repealed and ninety-nine new sections enacted in lieu thereof,
11 to be known as sections 37.800, 192.632, 317.001, 317.006, 317.011, 317.013,
12 317.015, 317.018, 317.019, 324.1100, 324.1102, 324.1104, 324.1106, 324.1108,
13 324.1110, 324.1112, 324.1114, 324.1116, 324.1118, 324.1120, 324.1122, 324.1124,
14 324.1126, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136, 324.1138, 324.1140,
15 324.1142, 324.1144, 324.1146, 324.1148, 327.011, 327.076, 327.077, 327.181,
16 327.441, 331.010, 334.120, 335.016, 335.036, 335.066, 335.067, 335.068, 335.076,
17 335.096, 335.097, 335.212, 336.010, 336.020, 336.030, 336.040, 336.050, 336.060,
18 336.070, 336.080, 336.140, 336.160, 336.220, 336.225, 337.600, 337.603, 337.604,
19 337.612, 337.615, 337.618, 337.622, 337.627, 337.630, 337.636, 337.643, 337.644,
20 337.645, 337.646, 337.653, 337.665, 337.689, 337.700, 337.715, 337.718, 339.100,
21 339.200, 339.205, 345.015, 345.030, 345.033, 345.045, 345.055, 346.015, 346.030,
22 346.035, 346.055, 346.060, 346.110, 383.130, 383.133, and 621.045, to read as
23 follows:

37.800. 1. This section shall be known and may be cited as the
2 **"The Human Voice Contact Act".**

3 **2. A state agency that uses automated telephone answering**
4 **equipment to answer incoming telephone calls shall, during normal**
5 **business hours of the agency, provide the caller with the option of**
6 **speaking to a live operator. This section shall not apply to field offices,**
7 **telephone lines dedicated as hotlines for emergency services, telephone**
8 **lines dedicated to providing general information, and any system that**
9 **is designed to permit an individual to conduct a complete transaction**
10 **with the state agency over the telephone solely by pressing one or more**
11 **touch tone telephone keys in response to automated prompts. As used**
12 **in this section, "state agency" refers to each board, commission,**
13 **department, officer or other administrative office or unit of the state**
14 **other than the general assembly, the courts, the governor, or a political**
15 **subdivision of the state, existing under the constitution or statute.**

192.632. 1. There is hereby created a "Chronic Kidney Disease
2 **Task Force". Unless otherwise stated, members shall be appointed by**

3 the director of the department of health and senior services and shall
4 include, but not be limited to, the following members:

5 (1) Two physicians appointed from lists submitted by the
6 Missouri State Medical Association;

7 (2) Two nephrologists;

8 (3) Two family physicians;

9 (4) Two pathologists;

10 (5) One member who represents owners or operators of clinical
11 laboratories in the state;

12 (6) One member who represents a private renal care provider;

13 (7) One member who has a chronic kidney disease;

14 (8) One member who represents the state affiliate of the National
15 Kidney Foundation;

16 (9) One member who represents the Missouri Kidney Program;

17 (10) Two members of the house of representatives appointed by
18 the speaker of the house of representatives;

19 (11) Two members of the senate appointed by the president pro
20 tempore of the senate;

21 (12) Additional members may be chosen to represent public
22 health clinics, community health centers, and private health insurers.

23 2. A chairperson and a vice-chairperson shall be elected by the
24 members of the task force.

25 3. The chronic kidney task force shall:

26 (1) Develop a plan to educate the public and health care
27 professionals about the advantages and methods of early screening,
28 diagnosis, and treatment of chronic kidney disease and its
29 complications based on kidney disease outcomes, quality initiative
30 clinical practice guidelines for chronic kidney disease, or other
31 medically recognized clinical practice guidelines;

32 (2) Make recommendations on the implementation of a cost-
33 effective plan for early screening, diagnosis, and treatment of chronic
34 kidney disease for the state's population;

35 (3) Identify barriers to adoption of best practices and potential
36 public policy options to address such barriers;

37 (4) Submit a report of its findings and recommendations to the
38 general assembly within one year of its first meeting.

39 4. The department of health and senior services shall provide all

40 **necessary staff, research, and meeting facilities for the chronic kidney**
41 **disease task force.**

317.001. As used in sections 317.001 to 317.021, the following words and
2 terms mean:

3 (1) **"Amateur", a person who competes in a boxing, wrestling,**
4 **kickboxing, or full-contact karate event who has not competed as a**
5 **contestant for valuable consideration in any event in which similar**
6 **boxing, wrestling, kickboxing, or full-contact karate skills were used or**
7 **allowed;**

8 (2) **"Bout", one match involving [either] professional boxing, sparring,**
9 **professional wrestling, professional kickboxing, or professional full-contact karate,**
10 **including professional mixed martial arts;**

11 (3) **"Boxing", the sport of attack and defense where contestants**
12 **are allowed to only use the fist to attack or strike in competition;**

13 [(2)] (4) **"Combative fighting", [also known as "toughman fighting",**
14 **"toughwoman fighting", "badman fighting", "ultimate fighting", "U.F.C." and**
15 **"extreme fighting", any boxing or wrestling match, contest or exhibition, between**
16 **two or more contestants, with or without protective headgear, who use their**
17 **hands, with or without gloves, or their feet, or both, and who compete for a**
18 **financial prize or any item of pecuniary value, and which match, contest,**
19 **tournament championship or exhibition is not recognized by and not sanctioned**
20 **by any officially recognized state, regional or national boxing or athletic**
21 **sanctioning authority, or any promoter duly licensed by the division of**
22 **professional registration] a bout or contest, with or without gloves or**
23 **protective headgear, whereby any part of the contestant's body may be**
24 **used as a weapon or any other means of fighting may be used with the**
25 **specific purpose of intentionally injuring the other contestants in such**
26 **a manner that they may not defend themselves and in which there is no**
27 **referee;**

28 [(3)] (5) **"Contest", a bout or a group of bouts involving licensed**
29 **contestants competing in professional boxing, sparring, professional wrestling,**
30 **professional kickboxing, or professional full-contact karate;**

31 [(4)] (6) **"Contestant", a person who competes in any [activity covered by**
32 **sections 317.001 to 317.021] boxing, wrestling, kickboxing, or full-contact**
33 **karate event;**

34 [(5)] (7) **"Division", the division of professional registration;**

35 [(6)] (8) "Director", the director of the division of professional
36 registration;

37 (9) "Exhibition", a boxing, wrestling, kickboxing, or full-contact
38 karate engagement in which persons are participating to show or
39 display their boxing, wrestling, kickboxing, or full-contact karate skill
40 and in which no decision is rendered;

41 [(7)] (10) "Fund", the athletic fund established pursuant to sections
42 317.001 to 317.021;

43 [(8) "Mandatory count of eight", a required count of eight that is given by
44 a referee to a contestant who has been knocked down;

45 (9) "Noncompetitive boxing", boxing or sparring where a decision is not
46 rendered;

47 [(10)] (11) "Full-contact karate", any form of full-contact martial
48 arts including, but not limited to, full-contact kungfu, full-contact tae
49 kwon do, or any form of martial arts, mixed martial arts, combat or
50 self-defense conducted on a full-contact basis in a match where
51 contestants are allowed to deliver blows or strikes;

52 (12) "Kickboxing", any match in which contestants are allowed to
53 use any form of boxing and are also allowed to use any part of the fist,
54 foot, or leg, with or without shin guards or protective gear, or any
55 combination thereof to deliver strikes above the waist and which does
56 not constitute mixed martial arts as defined by this section;

57 (13) "Mixed martial arts", any match in which any form of martial
58 arts or self-defense is conducted on a full-contact basis and where other
59 combative techniques or tactics are allowed in competition including,
60 but not limited to, kicking, striking, chokeholds, boxing, wrestling,
61 kickboxing, grappling, or joint manipulation. Professional mixed
62 martial arts is a form of full-contact karate;

63 (14) "Office", the division of professional registration, office of athletics;

64 [(11) "Professional boxing", the sport of attack and defense which uses the
65 fist and where contestants compete for valuable consideration;

66 (12) "Professional full-contact karate", any form of full-contact martial
67 arts including but not limited to full-contact kungfu, full-contact taw kwon-do, or
68 any form of martial arts or self-defense conducted on a full-contact basis in a bout
69 or contest where weapons are not used and where contestants compete for
70 valuable consideration. Such contests take place in a rope-enclosed ring and are

71 fought in timed rounds;

72 (13) "Professional kickboxing", any form of boxing in which blows are
73 delivered with any part of the arm below the shoulder, including the hand, and
74 any part of the leg below the hip, including the foot, and where contestants
75 compete for valuable consideration. Such contests take place in a rope-enclosed
76 ring and are fought in timed rounds;

77 (14) "Professional wrestling", any performance of wrestling skills and
78 techniques by two or more professional wrestlers, to which any admission is
79 charged. Participating wrestlers may not be required to use their best efforts in
80 order to win, the winner may have been selected before the performance
81 commences and contestants compete for valuable consideration. Such contests
82 take place in a rope-enclosed ring and are fought in timed rounds;]

83 (15) **"Professional", a wrestling, boxing, kickboxing, or full-contact**
84 **karate bout or contest where the participants compete for any valuable**
85 **consideration or a person who competes in any wrestling, boxing,**
86 **kickboxing, or full-contact karate bout or contest for any such**
87 **consideration;**

88 (16) "Sparring", [boxing for practice or as an exhibition] **any boxing,**
89 **wrestling, kickboxing, or full-contact karate conducted for practice and**
90 **for which admission or other similar consideration, in any form, is**
91 **charged to any member of the public;**

92 [(16) "Standing mandatory eight count", the count of eight that is given
93 at the discretion of a referee to a contestant who has been dazed by a blow and
94 is unable to defend himself or herself. The standing mandatory eight count may
95 be waived in a bout only with special permission of the office.]

96 (17) **"Wrestling", any performance of wrestling skills and**
97 **techniques by two or more individuals. Participating wrestlers may**
98 **perform without being required to use their best efforts in order to win**
99 **and the winner may have been selected before the performance**
100 **commences.**

317.006. 1. The division [of professional registration] shall have general
2 charge and supervision of all professional boxing, sparring, professional wrestling,
3 professional kickboxing and professional full-contact karate contests held in the
4 state of Missouri, and it shall have the power, and it shall be its duty:

5 (1) To make and publish rules governing in every particular professional
6 boxing, sparring, professional wrestling, professional kickboxing and professional

7 full-contact karate contests;

8 (2) **To make and publish rules governing the approval of amateur**
9 **sanctioning bodies;**

10 (3) To accept applications for and issue licenses to contestants in
11 professional boxing, sparring, professional wrestling, professional kickboxing and
12 professional full-contact karate contests held in the state of Missouri, and
13 referees, judges, matchmakers, managers, promoters, seconds, announcers,
14 timekeepers and physicians involved in professional boxing, sparring, professional
15 wrestling, professional kickboxing and professional full-contact karate contests
16 held in the state of Missouri, as authorized herein. Such licenses shall be issued
17 in accordance with rules duly adopted by the division;

18 [(3)] (4) To charge fees to be determined by the director and established
19 by rule for every license issued and to assess a tax of five percent of the gross
20 receipts of any person, organization, corporation, partnership, limited liability
21 company, or association holding a promoter's license and permit under sections
22 317.001 to 317.021, derived from admission charges connected with or as an
23 incident to the holding of any professional boxing, sparring, professional
24 wrestling, professional kickboxing or professional full-contact karate contest in
25 [this state] **the state of Missouri**. Such funds shall be paid to the division of
26 professional registration which shall pay said funds into the **Missouri** state
27 treasury to be set apart into a fund to be known as the "Athletic Fund" which is
28 hereby established;

29 [(4)] (5) To assess a tax of five percent of the gross receipts of any
30 person, organization, corporation, partnership, limited liability company or
31 association holding a promoter's license [and permit] under sections 317.001 to
32 317.021, derived from the sale, lease or other exploitation in this state of
33 broadcasting, television, **pay-per-view**, closed-circuit telecast, and motion
34 picture rights for any professional boxing, sparring, professional wrestling,
35 professional kickboxing or professional full-contact karate contest. Such funds
36 shall be paid to the division [of professional registration] which shall pay said
37 funds into the **Missouri** state treasury to be set apart into a fund to be known
38 as the "Athletic Fund";

39 [(5)] (5) To assess a tax of twenty-five percent of the gross receipts of any
40 person, organization, corporation, partnership, limited liability company or
41 association derived from the sale, lease or other exploitation in this state of
42 broadcasting, television, closed-circuit telecast, and motion picture rights for any

43 combative fighting contest. Such funds shall be paid to the division of
44 professional registration, which shall pay said funds into the state treasury to be
45 set apart into a fund to be known as the athletic fund;]

46 (6) Each cable television system operator whose pay-per-view **or closed-**
47 **circuit** facilities are utilized to telecast a bout or contest shall, within thirty
48 calendar days following the date of the telecast, file a report with the office
49 stating the number of orders sold and the price per order.

50 2. All fees established pursuant to sections 317.001 to 317.021 shall be
51 determined by the director by rule in such amount as to produce sufficient
52 revenue to fund the necessary expenses and operating costs incurred in the
53 administration of the provisions of sections 317.001 to 317.021. All expenses
54 shall be paid as otherwise provided by law.

317.011. 1. The division [of professional registration] shall have the
2 power, and it shall be its duty, to accept application for and issue permits to hold
3 professional boxing, sparring, professional wrestling, professional kickboxing or
4 professional full-contact karate contests in the state of Missouri, and to charge
5 a fee for the issuance of same in an amount established by rule; such funds to be
6 paid to the division [of professional registration] which shall pay such funds into
7 the **Missouri** state treasury to be set apart into the athletic fund.

8 2. The provisions of section 33.080, RSMo, to the contrary
9 notwithstanding, money in this fund shall not be transferred and placed to the
10 credit of general revenue until the amount in the fund at the end of the biennium
11 exceeds two times the amount of the appropriation from the fund for the
12 preceding fiscal year or, if the division requires by rule renewal less frequently
13 than yearly then three times the appropriation from the fund for the preceding
14 fiscal year. The amount, if any, in the fund which shall lapse is that amount in
15 the fund which exceeds the appropriate multiple of the appropriations from the
16 fund for the preceding fiscal year.

17 3. The division [of professional registration] shall not grant any permit
18 to hold professional boxing, sparring, professional wrestling, professional
19 kickboxing or professional full-contact karate contests in the state of Missouri
20 except:

21 (1) Where such professional boxing, sparring, professional wrestling,
22 professional kickboxing or professional full-contact karate contest is to be held
23 under the auspices of a promoter duly licensed by the division;

24 [(2) Where such contest shall be of not more than fifteen rounds of three

25 minutes each duration per bout;] and

26 [(3)] (2) Where a fee has been paid for such permit, in an amount
27 established by rule.

28 4. In such contests a decision shall be rendered by three judges licensed
29 by the division.

30 5. Specifically exempted from the provisions of this chapter are contests
31 or exhibitions for amateur boxing, amateur kickboxing, amateur wrestling and
32 amateur full-contact karate. However, all amateur boxing, amateur kickboxing,
33 amateur wrestling and amateur full-contact karate must be sanctioned by a
34 nationally recognized amateur sanctioning body approved by the office.

317.013. 1. In order to protect the health and welfare of the contestants,
2 there shall be a mandatory medical suspension of any contestant, not to exceed
3 one hundred [twenty] **eighty** days, who loses consciousness or who has been
4 injured as a result of blows received to the head or body during a [boxing bout or
5 semiprofessional elimination contest] **professional boxing, professional**
6 **wrestling, professional kickboxing, or professional full-contact karate**
7 **contest**. The determination of consciousness is to be made only by a physician
8 licensed by the board of healing arts and the division. Medical suspensions
9 issued in accordance with this section shall not be reviewable by any tribunal.

10 2. No license shall be issued to any person who has been injured in such
11 a manner that they may not continue **to participate in boxing, wrestling,**
12 **kickboxing, or full-contact karate contests** in the future. Such a person
13 shall be deemed medically retired. No person with a status of medically retired
14 shall compete in any events governed by this chapter. Medical retirements issued
15 in accordance with this section shall not be reviewable by any tribunal.

317.015. 1. Any person wishing to make a complaint against a licensee
2 under sections 317.001 to 317.014 shall file the written complaint with the
3 division setting forth supporting details. If the division determines that the
4 charges warrant a hearing to ascertain whether the licensee shall be disciplined,
5 it shall file a complaint with the administrative hearing commission as provided
6 in chapter 621, RSMo. Any person holding more than one license issued by the
7 division and disciplined under one license will automatically be disciplined under
8 all licenses.

9 2. (1) The division may refuse to issue any permit or license pursuant to
10 this chapter for one or any combination of reasons stated in paragraphs (a)
11 through (m) of subdivision (2) of this subsection. The division shall notify the

12 applicant in writing of the reasons for the refusal and shall advise the applicant
13 of their rights to file a complaint or an appeal with the administrative hearing
14 commission as provided in chapter 621, RSMo.

15 (2) The division may file a complaint with the administrative hearing
16 commission, as provided in chapter 621, RSMo, against any holder of any permit
17 or license issued pursuant to this chapter, or against any person who has failed
18 to renew or has surrendered their permit or license, for any one or more of the
19 following reasons:

20 (a) Use of an alcoholic beverage or any controlled substance, as defined
21 in chapter 195, RSMo, before or during a bout;

22 (b) The person has been found guilty or has entered a plea of guilty or
23 nolo contendere in a criminal prosecution under any state or federal law for any
24 offense reasonably related to the qualifications, functions or duties of any
25 profession licensed or regulated under this chapter, for any offense an essential
26 element of which is fraud, dishonesty or an act of violence, or for any offense
27 involving moral turpitude, whether or not a sentence is imposed;

28 (c) Use of fraud, deception, misrepresentation or bribery in securing any
29 permit or license issued pursuant to this chapter;

30 (d) Providing false information on applications or medical forms;

31 (e) Incompetency, misconduct, gross negligence, fraud, misrepresentation
32 or dishonesty in the performing of the functions or duties of any profession
33 licensed or regulated by this chapter;

34 (f) Violating or enabling any person to violate any provision of this
35 chapter or any rule adopted pursuant to this chapter;

36 (g) Impersonating any permit or license holder or allowing any person to
37 use their permit or license;

38 (h) Contestants failing to put forth their best effort during a bout;

39 (i) Disciplinary action against the holder of a license or other right to
40 practice any profession regulated by this chapter and issued by another state,
41 territory, federal agency or country upon grounds for which revocation or
42 suspension is authorized in this state;

43 (j) A person adjudged mentally incompetent by a court of competent
44 jurisdiction;

45 (k) Use of any advertisement or solicitation which is false, misleading or
46 deceptive to the general public or persons to whom the advertisement or
47 solicitation is primarily directed;

48 (l) Use of foul or abusive language or mannerisms or threats of physical
49 harm by any person associated with any bout or contest licensed pursuant to this
50 chapter; or

51 (m) Issuance of a permit or license based upon a mistake of fact.

52 (3) After the complaint is filed, the proceeding shall be conducted in
53 accordance with the provisions of chapter 621, RSMo. If the administrative
54 hearing commission finds that a person has violated one or more of the grounds
55 as provided in paragraphs (a) through (m) of subdivision (2) of this subsection,
56 the division may censure or place the person named in the complaint on probation
57 on appropriate terms and conditions for a period not to exceed five years, may
58 suspend the person's license for a period not to exceed three years, or may revoke
59 the person's license.

60 **3. Upon a finding that the grounds provided in subsection 2 of**
61 **this section for disciplinary action are met, the office may, singly or in**
62 **combination, censure or place on probation on such terms and**
63 **conditions as the office deems appropriate for a period not to exceed**
64 **five years, or may suspend for a period not to exceed three years or**
65 **revoke the certificate, license, or permit. In any order of revocation,**
66 **the office may provide that the person shall not apply for a new license**
67 **for a maximum of three years and one day following the date of the**
68 **order of revocation. All stay orders shall toll the disciplinary time**
69 **periods allotted herein. In lieu of or in addition to any remedy**
70 **specifically provided in subsection 1 of this section, the office may**
71 **require of a licensee:**

72 (1) Satisfactory completion of medical testing and/or
73 rehabilitation programs as the office may specify; and/or

74 (2) A review conducted as the office may specify and satisfactory
75 completion of medical testing and/or rehabilitation programs as the
76 office may specify.

317.018. 1. Combative fighting is prohibited in the state of Missouri.

2 2. Anyone who promotes or participates in combative fighting, or anyone
3 who serves as an agent, principal partner, publicist, vendor, producer, referee, or
4 contractor of or for combative fighting is guilty of a class D felony.

5 3. Any medical personnel who administers to, treats or assists any
6 participants of combative fighting shall not be subject to the provisions of this
7 section.

8 4. [Nothing in section 317.001 or this section shall be construed to give
9 authority to the Missouri state athletic commission to regulate boxing, sparring,
10 wrestling or contact karate conducted by entities which are not regulated on July
11 10, 1996, including but not limited to events conducted by the:

- 12 (1) Military;
- 13 (2) Private schools;
- 14 (3) Church schools;
- 15 (4) Home schools;
- 16 (5) Martial arts academies;
- 17 (6) Private gyms;
- 18 (7) YWCAs and YMCAs;
- 19 (8) Elementary and secondary schools;
- 20 (9) College and university inter- and intra-mural;
- 21 (10) Fraternal organizations;
- 22 (11) Camps, conducted by church or not for profit organizations;
- 23 (12) Olympic committees; or
- 24 (13) Correctional facilities.

25 5.] Nothing in section 317.001 or this section is intended to regulate, or
26 interfere with or make illegal, traditional, sanctioned **amateur or scholastic**
27 boxing, [including professional,] amateur[,] **or scholastic**[, championship boxing,
28 amateur] wrestling [or scholastic wrestling] **amateur or scholastic**
29 **kickboxing, or amateur or scholastic full-contact karate or amateur or**
30 **scholastic mixed martial arts.**

317.019. 1. The promoter of a professional boxing, professional
2 **kickboxing, and professional full-contact karate contest shall sign**
3 **written bout contracts with each professional contestant. Original bout**
4 **contracts shall be filed with the division prior to the event as required**
5 **by the rules of the office. The bout contract shall be on a form supplied**
6 **by the division and contain at least the following:**

- 7 **(1) The weight required of the contestant at weigh-in;**
- 8 **(2) The amount of the purse to be paid for the contest;**
- 9 **(3) The date and location of the contest;**
- 10 **(4) The glove size allotted for each contestant;**
- 11 **(5) Any other payment or consideration provided to the**
12 **contestant;**
- 13 **(6) List of all fees, charges, and expenses including training**

14 expenses that will be assessed to the contestant or deducted from the
15 contestant's purse;

16 (7) Any advances paid to the contestant before the bout;

17 (8) The amount of any compensation or consideration that a
18 promoter has contracted to receive in connection with the bout or
19 contest;

20 (9) The signature of the promoter and contestant;

21 (10) The date signed by both the promoter and the contestant;
22 and

23 (11) Any information required by the office.

24 2. If the bout contract between a contestant and promoter is
25 changed, the promoter shall provide the division with the amended
26 contract containing all contract changes at least two hours prior to the
27 event's scheduled start time. The amended contract shall comply with
28 all requirements for original bout contracts and shall contain the
29 signature of the promoter and contestant.

30 3. A promoter of an event shall not be a manager for a contestant
31 who is contracted for ten rounds or more at the event.

32 4. The promoter of an event shall provide payments for the event
33 official's fees to the office prior to the start of the event. The form of
34 payment shall be at the discretion of the office provided that payments
35 remitted by check or money order shall be made payable directly to the
36 applicable official.

324.1100. As used in sections 324.1100 to 324.1148, the following
2 terms mean:

3 (1) "Board", the board of private investigator examiners
4 established in section 324.1102;

5 (2) "Client", any person who engages the services of a private
6 investigator;

7 (3) "Department", the department of insurance, financial
8 institutions and professional registration;

9 (4) "Law enforcement officer", a law enforcement officer as
10 defined in section 556.061, RSMo;

11 (5) "Organization", a corporation, trust, estate, partnership,
12 cooperative, or association;

13 (6) "Person", an individual or organization;

14 (7) "Private investigator", any person who receives any

15 consideration, either directly or indirectly, for engaging in the private
16 investigator business;

17 (8) "Private investigator agency", a person who regularly employs
18 any other person, other than an organization, to engage in the private
19 investigator business;

20 (9) "Private investigator business", the furnishing of, making of,
21 or agreeing to make, any investigation for the purpose of obtaining
22 information pertaining to:

23 (a) Crimes or wrongs done or threatened against the United
24 States or any state or territory of the United States;

25 (b) The identity, habits, conduct, business, occupation, honesty,
26 integrity, credibility, knowledge, trustworthiness, efficiency, loyalty,
27 activity, movement, whereabouts, affiliations, associations,
28 transactions, acts, reputation, or character of any person;

29 (c) The location, disposition, or recovery of lost or stolen
30 property;

31 (d) Securing evidence to be used before any court, board, officer,
32 or investigating committee;

33 (e) Sale of personal identification information to the public; or

34 (f) The cause of responsibility for libel, losses, accident, or
35 damage or injury to persons or property or protection of life or
36 property.

324.1102. 1. The "Board of Private Investigator Examiners" is
2 hereby created within the division of professional registration. The
3 board shall be a body corporate and may sue and be sued.

4 2. The board shall be composed of five members, including two
5 public members, appointed by the governor with the advice and
6 consent of the senate. Except for the public members, each member of
7 the board shall be a citizen of the United States, a resident of Missouri,
8 at least thirty years of age, and shall have been actively engaged in the
9 private investigator business for the previous five years. No more than
10 one private investigator board member may be employed by, or
11 affiliated with, the same private investigator agency. The initial
12 private investigator board members shall not be required to be licensed
13 but shall obtain a license within one hundred eighty days after the
14 effective date of the rules promulgated under sections 324.1100 to
15 324.1148 regarding licensure. The public members shall each be a

16 registered voter and a person who is not and never was a member of
17 any profession licensed or regulated under sections 324.1100 to 324.1148
18 or the spouse of such person; and a person who does not have and
19 never has had a material, financial interest in either the providing of
20 the professional services regulated by sections 324.1100 to 324.1148, or
21 an activity or organization directly related to any profession licensed
22 or regulated under sections 324.1100 to 324.1148. The duties of the
23 public members shall not include the determination of the technical
24 requirements to be met for licensure or whether any person meets such
25 technical requirements or of the technical competence or technical
26 judgment of a licensee or a candidate for licensure.

27 3. The members shall be appointed for terms of two years, except
28 those first appointed, in which case two members, who shall be private
29 investigators, shall be appointed for terms of four years, two members
30 shall be appointed for terms of three years, and one member shall be
31 appointed for a one-year term. Any vacancy on the board shall be filled
32 for the unexpired term of the member and in the manner as the first
33 appointment. No member may serve consecutive terms.

34 4. The members of the board may receive compensation, as
35 determined by the director for their services, if appropriate, and shall
36 be reimbursed for actual and necessary expenses incurred in
37 performing their official duties on the board.

38 5. There is hereby created in the state treasury the "Board of
39 Private Investigator Examiners Fund", which shall consist of money
40 collected under sections 324.1100 to 324.1148. The state treasurer shall
41 be custodian of the fund and shall approve disbursements from the
42 fund in accordance with the provisions of sections 30.170 and 30.180,
43 RSMo. Upon appropriation, money in the fund shall be used solely for
44 the administration of sections 324.1100 to 324.1148. Notwithstanding
45 the provisions of section 33.080, RSMo, to the contrary, any moneys
46 remaining in the fund at the end of the biennium shall not revert to the
47 credit of the general revenue fund. The state treasurer shall invest
48 moneys in the fund in the same manner as other funds are
49 invested. Any interest and moneys earned on such investments shall be
50 credited to the fund.

 324.1104. Unless expressly exempted from the provisions of
2 sections 324.1100 to 324.1148:

3 (1) It shall be unlawful for any person to engage in the private
4 investigator business in this state unless such person is licensed as a
5 private investigator under sections 324.1100 to 324.1148;

6 (2) It shall be unlawful for any person to engage in business in
7 this state as a private investigator agency unless such person is
8 licensed under sections 324.1100 to 324.1148.

 324.1106. The following persons shall not be deemed to be
2 engaging in the private investigator business:

3 (1) A person employed exclusively and regularly by one employer
4 in connection only with the affairs of such employer and where there
5 exists an employer-employee relationship;

6 (2) Any officer or employee of the United States, or of this state
7 or a political subdivision thereof while engaged in the performance of
8 the officer's or employee's official duties;

9 (3) Any employee, agent, or independent contractor employed by
10 any government agency, division, or department of the state whose
11 work relationship is established by a written contract while working
12 within the scope of employment established under such contract;

13 (4) An attorney performing duties as an attorney, or an
14 attorney's paralegal or employee retained by such attorney assisting in
15 the performance of such duties or investigation on behalf of such
16 attorney;

17 (5) A collection agency or an employee thereof while acting
18 within the scope of employment, while making an investigation
19 incidental to the business of the agency, including an investigation of
20 the location of a debtor or a debtor's property where the contract with
21 an assignor creditor is for the collection of claims owed or due, or
22 asserted to be owed or due, or the equivalent thereof;

23 (6) Insurers and insurance producers licensed by the state,
24 performing duties in connection with insurance transacted by them;

25 (7) Any bank subject to the jurisdiction of the director of the
26 division of finance of the state of Missouri or the comptroller of
27 currency of the United States;

28 (8) An insurance adjuster. For the purposes of sections 324.1100
29 to 324.1148, an "insurance adjuster" means any person who receives any
30 consideration, either directly or indirectly, for adjusting in the disposal
31 of any claim under or in connection with a policy of insurance or

32 **engaging in soliciting insurance adjustment business;**

33 **(9) Any private fire investigator whose primary purpose of**
34 **employment is the determination of the origin, nature, cause, or**
35 **calculation of losses relevant to a fire;**

36 **(10) Employees of a not-for-profit organization or its affiliate or**
37 **subsidiary who makes and processes requests on behalf of health care**
38 **providers and facilities for employee criminal and other background**
39 **information under section 660.317, RSMo;**

40 **(11) Any real estate broker, real estate salesperson, or real estate**
41 **appraiser acting within the scope of his or her license;**

42 **(12) Expert witnesses who have been certified or accredited by**
43 **a national or state association associated with the expert's scope of**
44 **expertise;**

45 **(13) Any person who does not hold themselves out to the public**
46 **as a private investigator but is under contract with a state agency or**
47 **political subdivision; or**

48 **(14) Any person performing duties or conducting investigations**
49 **relating to serving legal process when such person's investigation is**
50 **incidental to the serving of legal process;**

51 **(15) A consumer reporting agency as defined in 15 U.S.C. Section**
52 **1681(a) and its contract and salaried employees.**

324.1108. 1. Every person desiring to be licensed in this state as
2 **a private investigator or private investigator agency shall make**
3 **application therefor to the board of private investigator examiners. An**
4 **application for a license under the provisions of sections 324.1100 to**
5 **324.1148 shall be on a form prescribed by the board of private**
6 **investigator examiners and accompanied by the required application**
7 **fee. An application shall be verified and shall include:**

8 **(1) The full name and business address of the applicant;**

9 **(2) The name under which the applicant intends to conduct**
10 **business;**

11 **(3) A statement as to the general nature of the business in which**
12 **the applicant intends to engage;**

13 **(4) A statement as to the classification or classifications under**
14 **which the applicant desires to be qualified;**

15 **(5) Two recent photographs of the applicant, of a type prescribed**
16 **by the board of private investigator examiners, and two classifiable sets**

17 of the applicant's fingerprints processed in a manner approved by the
18 Missouri state highway patrol, criminal records and identification
19 division, under section 43.543, RSMo;

20 (6) A verified statement of the applicant's experience
21 qualifications; and

22 (7) Such other information, evidence, statements, or documents
23 as may be required by the board of private investigator examiners.

24 2. Before an application for a license may be granted, the
25 applicant shall:

26 (1) Be at least twenty-one years of age;

27 (2) Be a citizen of the United States;

28 (3) Provide proof of liability insurance with amount to be no less
29 than two hundred fifty thousand dollars in coverage and proof of
30 workers' compensation insurance if required under chapter 287,
31 RSMo. The board shall have the authority to raise the requirements as
32 deemed necessary; and

33 (4) Comply with such other qualifications as the board adopts by
34 rules and regulations.

324.1110. 1. The board of private investigator examiners shall
2 require as a condition of licensure as a private investigator that the
3 applicant pass a written examination as evidence of knowledge of
4 investigator rules and regulations.

5 2. The department shall conduct a complete investigation of the
6 background of each applicant for licensure as a private investigator to
7 determine whether the applicant is qualified for licensure under
8 sections 324.1100 to 324.1148. The board shall outline basic
9 qualification requirements for licensing as a private investigator and
10 agency.

11 3. In the event requirements have been met so that testing has
12 been waived, qualification shall be dependent on a showing of, for the
13 two previous years:

14 (1) Registration and good standing as a business in this state;
15 and

16 (2) Two hundred fifty thousand dollars in business general
17 liability insurance.

18 4. The board may review applicants seeking reciprocity. An
19 applicant seeking reciprocity shall have undergone a licensing

20 procedure similar to that required by this state and shall meet this
21 state's minimum insurance requirements.

324.1112. The board of private investigator examiners may deny
2 a request for a license if the applicant:

3 (1) Has committed any act which, if committed by a licensee,
4 would be grounds for the suspension or revocation of a license under
5 the provisions of sections 324.1100 to 324.1148;

6 (2) Within two years prior to the application date:

7 (a) Has been convicted of or entered a plea of guilty or nolo
8 contendere to a felony offense, including the receiving of a suspended
9 imposition of sentence following a plea or finding of guilty to a felony
10 offense;

11 (b) Has been convicted of or entered a plea of guilty or nolo
12 contendere to a misdemeanor offense involving moral turpitude;

13 (c) Has falsified or willfully misrepresented information in an
14 employment application, records of evidence, or in testimony under
15 oath;

16 (d) Has been dependent on or abused alcohol or drugs; or

17 (e) Has used, possessed, or trafficked in any illegal substance;

18 (3) Has been refused a license under the provisions of sections
19 324.1100 to 324.1148 or had a license revoked in this state or in any
20 other state;

21 (4) While unlicensed, committed or aided and abetted the
22 commission of any act for which a license is required by sections
23 324.1100 to 324.1148 after the effective date of this section; or

24 (5) Knowingly made any false statement in the application.

324.1114. 1. Every application submitted under the provisions of
2 sections 324.1100 to 324.1148 shall be accompanied by a fee as
3 determined by the board as follows:

4 (1) For an individual license, agency license and employees being
5 licensed to work under an agency license; or

6 (2) If a license is issued for a period of less than one year, the fee
7 shall be prorated for the months, or fraction thereof, for which the
8 license is issued.

9 2. The board shall set fees as authorized by sections 324.1100 to
10 324.1148 at a level to produce revenue which will not substantially
11 exceed the cost and expense of administering sections 324.1100 to

12 324.1148.

13 3. The fees prescribed by sections 324.1100 to 324.1148 shall be
14 exclusive and notwithstanding any other provision of law. No
15 municipality may require any person licensed under sections 324.1100
16 to 324.1148 to furnish any bond, pass any examination, or pay any
17 license fee or occupational tax relative to practicing the person's
18 profession.

19 4. A private investigator license shall allow only the individual
20 licensed by the state to conduct investigations. An agency license shall
21 be applied for separately and held by an individual who is licensed as
22 a private investigator. The agency may hire individuals to work for the
23 agency conducting investigations for the agency only. Persons hired
24 shall make application as determined by the board and meet all
25 requirements set forth by the board except that they shall not be
26 required to meet any experience requirements and shall be allowed to
27 begin working immediately upon the agency submitting their
28 applications.

324.1116. A private investigator agency shall not hire any
2 individual as an employee unless the individual:

- 3 (1) Is at least twenty-one years of age;
- 4 (2) Provides two recent photographs of themselves, of a type
5 prescribed by the board of private investigator examiners;
- 6 (3) Has been fingerprinted in a manner approved by the Missouri
7 state highway patrol, criminal records and identification division,
8 under section 43.543, RSMo; and
- 9 (4) Complies with any other qualifications and requirements the
10 board adopts by rule.

324.1118. A private investigator agency shall not hire an
2 individual, who is not licensed as a private investigator, as an employee
3 if the individual:

- 4 (1) Has committed any act which, if committed by a licensee,
5 would be grounds for the suspension or revocation of a license under
6 the provisions of sections 324.1100 to 324.1148;
- 7 (2) Within two years prior to the application date:
 - 8 (a) Has been convicted of or entered a plea of guilty or nolo
9 contendere to a felony offense, including the receiving of a suspended
10 imposition of sentence following a plea or finding of guilty to a felony

11 **offense;**

12 **(b) Has been convicted of or entered a plea of guilty or nolo**
13 **contendere to a misdemeanor offense involving moral turpitude;**

14 **(c) Has falsified or willfully misrepresented information in an**
15 **employment application, records of evidence, or in testimony under**
16 **oath;**

17 **(d) Has been dependent on or abused alcohol or drugs; or**

18 **(e) Has used, possessed, or trafficked in any illegal substance;**

19 **(3) Has been refused a license under the provisions of sections**
20 **324.1100 to 324.1148 or had a license revoked in this state or in any**
21 **other state;**

22 **(4) While unlicensed, committed or aided and abetted the**
23 **commission of any act for which a license is required by sections**
24 **324.1100 to 324.1148 after the effective date of this section; or**

25 **(5) Knowingly made any false statement in the application.**

324.1120. An individual, who is not licensed as a private
2 **investigator, hired as an employee by a private investigator agency**
3 **shall work only under the direct supervision of the agency whose**
4 **identification number appears on their application and shall work only**
5 **for one agency at any one time.**

324.1122. A licensee shall successfully complete sixteen hours of
2 **continuing education units biennially. An individual not licensed as a**
3 **private investigator who is hired as an employee by a private**
4 **investigator agency shall successfully complete eight hours of**
5 **continuing education units biennially. Such continuing education shall**
6 **be relevant to the private investigator business and shall be approved**
7 **by the board as such.**

324.1124. 1. The board of private investigator examiners shall
2 **determine the form of the license which shall include the:**

3 **(1) Name of the licensee;**

4 **(2) Name under which the licensee is to operate; and**

5 **(3) Number and date of the license.**

6 **2. The license shall be posted at all times in a conspicuous place**
7 **in the principal place of business of the licensee. Upon the issuance of**
8 **a license, a pocket card of such size, design, and content as determined**
9 **by the division shall be issued without charge to each licensee. Such**
10 **card shall be evidence that the licensee is licensed under sections**

11 324.1100 to 324.1148. When any person to whom a card is issued
12 terminates such person's position, office, or association with the
13 licensee, the card shall be surrendered to the licensee and within five
14 days thereafter shall be mailed or delivered by the licensee to the
15 board of private investigator examiners for cancellation. Within thirty
16 days after any change of address, a licensee shall notify the board of
17 the address change. The principal place of business may be at a
18 residence or at a business address, but it shall be the place at which
19 the licensee maintains a permanent office.

324.1126. 1. Any license issued under sections 324.1100 to
2 324.1148 shall expire two years after the date of its issuance. Renewal
3 of any such license shall be made in the manner prescribed for
4 obtaining an original license, including payment of the appropriate fee,
5 except that:

6 (1) The application upon renewal need only provide information
7 required of original applicants if the information shown on the original
8 application or any renewal thereof on file with the board is no longer
9 accurate;

10 (2) A new photograph shall be submitted with the application for
11 renewal only if the photograph on file with the board has been on file
12 more than two years; and

13 (3) The applicant does not have to be tested again but must
14 instead provide proof that the applicant successfully completed sixteen
15 hours of continuing education credits; and

16 (4) Additional information may be required by rules and
17 regulations adopted by the board of private investigator examiners.

18 2. A licensee shall at all times be legally responsible for the good
19 conduct of each of the licensee's employees or agents while engaged in
20 the business of the licensee and the licensee is legally responsible for
21 any acts committed by such licensee's employees or agents which are
22 in violation of sections 324.1100 to 324.1148. A person receiving an
23 agency license shall directly manage the agency and employees.

24 3. A license issued under sections 324.1100 to 324.1148 shall not
25 be assignable.

324.1128. 1. Any licensee may divulge to the board, any law
2 enforcement officer, prosecuting attorney, or such person's
3 representative any information such person may acquire about any

4 criminal offense. The licensee may instruct his or her client to divulge
5 such information if the client is the victim, but such person shall not
6 divulge to any other person, except as he or she may be required by
7 law, any information acquired by such person at the direction of the
8 employer or client for whom the information was obtained.

9 2. No licensee officer, director, partner, associate, or employee
10 thereof shall:

11 (1) Knowingly make any false report to his or her employer or
12 client for whom information was being obtained;

13 (2) Cause any written report to be submitted to a client except
14 by the licensee, and the person submitting the report shall exercise
15 diligence in ascertaining whether or not the facts and information in
16 such report are true and correct;

17 (3) Use a title, wear a uniform, use an insignia or an
18 identification card, or make any statement with the intent to give an
19 impression that such person is connected in any way with the federal
20 government, a state government, or any political subdivision of a state
21 government;

22 (4) Appear as an assignee party in any proceeding involving
23 claim and delivery, replevin or other possessory action, action to
24 foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any
25 other lien;

26 (5) Manufacture false evidence; or

27 (6) Create any video recording of an individual in their domicile
28 without the individual's permission. Furthermore, if such video
29 recording is made, it shall not be admissible as evidence in any civil
30 proceeding.

324.1130. Each licensee shall maintain a record containing such
2 information relative to the licensee's employees as may be prescribed
3 by the board of private investigator examiners. Such licensee shall file
4 with the board the complete address of the location of the licensee's
5 principal place of business. The board may require the filing of other
6 information for the purpose of identifying such principal place of
7 business.

324.1132. Every advertisement by a licensee soliciting or
2 advertising business shall contain the licensee's name, city, and state
3 as it appears in the records of the board of private investigator

4 examiners. No individual or business can advertise as a private
5 investigator, private detective, or private investigator agency without
6 including their state private investigator or private investigator agency
7 license number in the advertisement. A licensee shall not advertise or
8 conduct business from any Missouri address other than that shown on
9 the records of the board as the licensee's principal place of business
10 unless the licensee has received an additional agency license for such
11 location after compliance with the provisions of sections 324.1100 to
12 324.1148 and such additional requirements necessary for the protection
13 of the public as the board may prescribe by regulation. A licensee shall
14 notify the board in writing within ten days after closing or changing
15 the location of a branch office. The fee for the additional license shall
16 be one-half the cost of the fee for the agency's original license.

324.1134. 1. The board may suspend or refuse to renew any
2 certificate of registration or authority, permit or license required
3 under sections 324.1100 to 324.1148 for one or any combination of
4 causes stated in subsection 2 of this section. The board shall notify the
5 applicant in writing of the reasons for the suspension or refusal and
6 shall advise the applicant of the applicant's right to file a complaint
7 with the administrative hearing commission as provided by chapter
8 621, RSMo. As an alternative to a refusal to issue or renew any
9 certificate, registration or authority, the board may, at its discretion,
10 issue a license which is subject to probation, restriction or limitation
11 to an applicant for licensure for any one or any combination of causes
12 stated in subsection 2 of this section. The board's order of probation,
13 limitation or restriction shall contain a statement of the discipline
14 imposed, the basis therefor, the date such action shall become effective,
15 and a statement that the applicant has thirty days to request in writing
16 a hearing before the administrative hearing commission. If the board
17 issues a probationary, limited or restricted license to an applicant for
18 licensure, either party may file a written petition with the
19 administrative hearing commission within thirty days of the effective
20 date of the probationary, limited or restricted license seeking review
21 of the board's determination. If no written request for a hearing is
22 received by the administrative hearing commission within the
23 thirty-day period, the right to seek review of the board's decision shall
24 be considered as waived.

25 **2. The board may cause a complaint to be filed with the**
26 **administrative hearing commission as provided by chapter 621, RSMo,**
27 **against any holder of any certificate of registration or authority,**
28 **permit or license required by this chapter or any person who has failed**
29 **to renew or has surrendered the person's certificate of registration or**
30 **authority, permit or license for any one or any combination of the**
31 **following causes:**

32 **(1) Making any false statement or giving any false information**
33 **in connection with an application for a license or a renewal or**
34 **reinstatement thereof;**

35 **(2) Violating any provision of sections 324.1100 to 324.1148;**

36 **(3) Violating any rule of the board of private investigator**
37 **examiners adopted under the authority contained in sections 324.1100**
38 **to 324.1148;**

39 **(4) Impersonating, or permitting or aiding and abetting an**
40 **employee to impersonate, a law enforcement officer or employee of the**
41 **United States of America, or of any state or political subdivision**
42 **thereof;**

43 **(5) Committing, or permitting any employee to commit any act,**
44 **while the license was expired, which would be cause for the suspension**
45 **or revocation of a license, or grounds for the denial of an application**
46 **for a license;**

47 **(6) Knowingly violating, or advising, encouraging, or assisting**
48 **the violation of, any court order or injunction in the course of business**
49 **as a licensee;**

50 **(7) Using any letterhead, advertisement, or other printed matter,**
51 **or in any manner whatever represented that such person is an**
52 **instrumentality of the federal government, a state, or any political**
53 **subdivision thereof;**

54 **(8) Using a name different from that under which such person is**
55 **currently licensed in any advertisement, solicitation, or contract for**
56 **business; or**

57 **(9) Committing any act which is grounds for denial of an**
58 **application for a license under section 324.1112.**

59 **3. The record of conviction, or a certified copy thereof, shall be**
60 **conclusive evidence of such conviction, and a plea or verdict of guilty**
61 **is deemed to be a conviction within the meaning thereof.**

62 4. The agency may continue under the direction of another
63 employee if the licensee's license is suspended or revoked by the
64 board. The board shall establish a time frame in which the agency shall
65 identify an acceptable person who is qualified to assume control of the
66 agency, as required by the board.

67 5. After the filing of a complaint before the administrative
68 hearing commission, the proceedings shall be conducted in accordance
69 with the provisions of chapter 621, RSMo. Upon a finding by the
70 administrative hearing commission that the grounds in subsection 1 of
71 this section for disciplinary action are met, the board may singly or in
72 combination censure or place the person named in the complaint on
73 probation under such terms and conditions as the board deems
74 appropriate for a period not to exceed five years, may suspend for a
75 period not to exceed three years, or revoke the license.

 324.1136. 1. Each private investigator or investigator agency
2 operating under the provisions of sections 324.1100 to 324.1148 shall be
3 required to keep a complete record of the business transactions of such
4 investigator or investigator agency for a period of seven years. Upon
5 the service of a court order issued by a court of competent jurisdiction
6 or upon the service of a subpoena issued by the board that is based on
7 a complaint supported by oath or affirmation, which particularly
8 describes the records and reports, any licensed private investigator
9 who is the owner, partner, director, corporate officer, or custodian of
10 business records shall provide an opportunity for the inspection of the
11 same and to inspect reports made. Any information obtained by the
12 board shall be kept confidential, except as may be necessary to
13 commence and prosecute any legal proceedings. The board shall not
14 personally enter a licensee's place of business to inspect records, but
15 shall utilize an employee of the division of professional registration to
16 act as a gatherer of information and facts to present to the board
17 regarding any complaint or inspection under investigation.

18 2. For the purpose of enforcing the provisions of sections
19 324.1100 to 324.1148, and in making investigations relating to any
20 violation thereof, the board shall have the power to subpoena and bring
21 before the board any person in this state and require the production of
22 any books, records, or papers which the board deems relevant to the
23 inquiry. The board also may administer an oath to and take the

24 testimony of any person, or cause such person's deposition to be taken,
25 except that any applicant or licensee or officer, director, partner, or
26 associate thereof shall not be entitled to any fees or mileage. A
27 subpoena issued under this section shall be governed by the Missouri
28 rules of civil procedure and shall comply with any confidentiality
29 standards or legal limitations imposed by privacy or open records acts,
30 fair credit reporting acts, polygraph acts, driver privacy protection
31 acts, judicially recognized privileged communications, and the bill of
32 rights of both the United States and Missouri Constitutions. Any
33 person duly subpoenaed who fails to obey such subpoena without
34 reasonable cause, or without such cause refuses to be examined or to
35 answer any legal or pertinent question as to the character or
36 qualification of such applicant or licensee or such applicant's alleged
37 unlawful or deceptive practices or methods, shall be guilty of a class A
38 misdemeanor. The testimony of witnesses in any investigative
39 proceeding shall be under oath.

324.1138. 1. The board shall adopt such rules and regulations as
2 may be necessary to carry out the provisions of sections 324.1100 to
3 324.1148.

4 2. Any rule or portion of a rule, as that term is defined in section
5 536.010, RSMo, that is created under the authority delegated in sections
6 324.1100 to 324.1148 shall become effective only if it complies with and
7 is subject to all of the provisions of chapter 536, RSMo, and, if
8 applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
9 are nonseverable and if any of the powers vested with the general
10 assembly under chapter 536, RSMo, to review, to delay the effective
11 date, or to disapprove and annul a rule are subsequently held
12 unconstitutional, then the grant of rulemaking authority and any rule
13 proposed or adopted after August 28, 2007, shall be invalid and void.

324.1140. 1. The board of private investigator examiners shall
2 certify persons who are qualified to train private investigators.

3 2. In order to be certified as a trainer under this section, a
4 trainer shall:

- 5 (1) Be twenty-one or more years of age;
- 6 (2) Have a minimum of one-year supervisory experience with a
7 private investigator agency; and
- 8 (3) Be personally licensed as a private investigator under

9 sections 324.1100 to 324.1148 and qualified to train private
10 investigators.

11 3. Persons wishing to become certified trainers shall make
12 application to the board of private investigator examiners on a form
13 prescribed by the board and accompanied by a fee determined by the
14 board. The application shall contain a statement of the plan of
15 operation of the training offered by the applicant and the materials and
16 aids to be used and any other information required by the board.

17 4. A certificate shall be granted to a trainer if the board finds
18 that the applicant:

19 (1) Meets the requirements of subsection 2 of this section;

20 (2) Has sufficient knowledge of private investigator business in
21 order to train private investigators sufficiently;

22 (3) Has supplied all required information to the board; and

23 (4) Has paid the required fee.

24 5. The certificate issued under this section shall expire on the
25 third year after the year in which it is issued and shall be renewable
26 triennially upon application and payment of a fee.

324.1142. Any person who knowingly falsifies the fingerprints or
2 photographs or other information required to be submitted under
3 sections 324.1100 to 324.1148 is guilty of a class D felony; and any
4 person who violates any of the other provisions of sections 324.1100 to
5 324.1148 is guilty of a class A misdemeanor.

324.1144. The board may negotiate and enter into reciprocal
2 agreements with appropriate officials in other states to permit licensed
3 private investigator agencies and licensed private investigators who
4 meet or exceed the qualifications established in sections 324.1100 to
5 324.1148 to operate across state lines under mutually acceptable terms.

324.1146. Law enforcement officers who perform private
2 investigations shall be licensed under this chapter subject to the
3 following qualifications and limitations:

4 (1) The board may waive testing for law enforcement officers
5 currently certified under existing peace officer standards and training
6 requirements under chapter 590, RSMo;

7 (2) Law enforcement officers shall pay the appropriate licensing
8 fees;

9 (3) Law enforcement officers shall assume individual liability for

10 **their actions while performing private investigations, complying with**
11 **any insurance or bonding requirements imposed under sections**
12 **324.1100 to 324.1148;**

13 **(4) Law enforcement officers shall not utilize their official**
14 **capacity in the course of a private investigation, including but not**
15 **limited to:**

16 **(a) Accessing information intended only for police officials. Law**
17 **enforcement officers shall comply with the legal limits on access to the**
18 **information of private citizens;**

19 **(b) Utilizing any official item, such as a uniform, badge, or**
20 **vehicle, while performing a private investigation. Law enforcement**
21 **officers shall provide their own equipment;**

22 **(c) Utilizing law enforcement officer arrest and use of force**
23 **standards. Law enforcement officers shall use private citizen arrest**
24 **and use of force standards while operating as a private investigator;**

25 **(5) Law enforcement officers shall produce evidence of training**
26 **and experience concerning the legal limits imposed on private**
27 **investigations or pass a test on such subject produced by the board;**
28 **and**

29 **(6) The provisions of sections 324.1100 to 324.1148 shall not apply**
30 **to law enforcement officers who provide only private security services**
31 **and not private investigator services.**

324.1148. Any person who violates sections 324.1100 to 324.1148
2 **is guilty of a class A misdemeanor. Any second or subsequent violation**
3 **of sections 324.1100 to 324.1148 is a class D felony.**

327.011. As used in this chapter, the following words and terms shall have
2 the meanings indicated:

3 (1) "Accredited degree program from a school of architecture", a degree
4 from any school or other institution which teaches architecture and whose
5 curricula for the degree in question have been, at the time in question, certified
6 as accredited by the National Architectural Accrediting Board;

7 (2) "Accredited school of landscape architecture", any school or other
8 institution which teaches landscape architecture and whose curricula on the
9 subjects in question are or have been at the times in question certified as
10 accredited by the Landscape Architecture Accreditation Board of the American
11 Society of Landscape Architects;

12 (3) "Accredited school of engineering", any school or other institution

13 which teaches engineering and whose curricula on the subjects in question are or
14 have been, at the time in question certified as accredited by the engineering
15 accreditation commission of the accreditation board for engineering and
16 technology or its successor organization;

17 (4) "Architect", any person authorized pursuant to the provisions of this
18 chapter to practice architecture in Missouri, as the practice of architecture is
19 defined in section 327.091;

20 (5) "Board", the Missouri board for architects, professional engineers,
21 professional land surveyors and landscape architects;

22 (6) "Corporation", any general business corporation, professional
23 corporation or limited liability company;

24 (7) ["Department", the department of economic development;

25 (8) "Division", the division of professional registration in the department
26 of economic development;

27 (9)] "Landscape architect", any person licensed pursuant to the provisions
28 of sections 327.600 to 327.635 who is qualified to practice landscape architecture
29 by reason of special knowledge and the use of biological, physical, mathematical
30 and social sciences and the principles and methods of analysis and design of the
31 land, has demonstrated knowledge and ability in such areas, and has been duly
32 licensed as a landscape architect by the board on the basis of professional
33 education, examination and experience in landscape architecture;

34 (8) "Licensee", a person licensed to practice any profession
35 regulated under this chapter or a corporation authorized to practice
36 any such profession;

37 [(10)] (9) "Partnership", any partnership or limited liability partnership;

38 [(11)] (10) "Person", any person, corporation, firm, partnership,
39 association or other entity;

40 [(12)] (11) "Professional engineer", any person authorized pursuant to
41 the provisions of this chapter to practice as a professional engineer in Missouri,
42 as the practice of engineering is defined in section 327.181;

43 [(13)] (12) "Professional land surveyor", any person authorized pursuant
44 to the provisions of this chapter to practice as a professional land surveyor in
45 Missouri as the practice of land surveying is defined in section 327.272.

327.076. 1. Any person who practices architecture, engineering,
2 land surveying, or landscape architecture, as defined in sections
3 327.011 to 327.635, or who holds himself or herself out as able to

4 practice such profession and who is not the holder of a currently valid
5 license or certificate of authority in Missouri, and who is not exempt
6 from holding such a license or certificate, is guilty of a class A
7 misdemeanor. As used in this section "practice" shall not include the
8 rendering of opinions or giving of testimony in a civil or criminal
9 proceeding by a licensed professional.

10 2. The board may cause a complaint to be filed with the
11 administrative hearing commission, as provided in chapter 621, RSMo,
12 against any unlicensed person who:

13 (1) Engages in or offers to render or engage in the practice of
14 architecture, professional engineering, land surveying, or landscape
15 architecture;

16 (2) Uses or employs titles defined and protected by this chapter,
17 or implies authorization to provide or offer professional services, or
18 otherwise uses or advertises any title, word, figure, sign, card,
19 advertisement, or other symbol or description tending to convey the
20 impression that the person is licensed or holds a certificate of
21 authority to practice architecture, professional engineering, land
22 surveying, or landscape architecture;

23 (3) Presents or attempts to use another person's license, seal, or
24 certificate of authority as his or her own;

25 (4) Attempts to use an expired, suspended, revoked, or
26 nonexistent license or certificate of authority;

27 (5) Affixes his or her or another architect's, engineer's, land
28 surveyor's, or landscape architect's seal on any plans, drawings,
29 specifications or reports which have not been prepared by such person
30 or under such person's immediate personal supervision care;

31 (6) Gives false or forged evidence of any kind to the board or any
32 member of the board in obtaining or attempting to obtain a certificate
33 of licensure in this state or any other state or jurisdiction;

34 (7) Knowingly aids or abets an unlicensed or unauthorized
35 person who engages in any prohibited activity identified in this
36 subsection;

37 (8) Violates any provision of the code of professional conduct or
38 other rule adopted by the board; or

39 (9) Violates any provision of subsection 2 of section 327.441.

40 3. When reviewing complaints against unlicensed persons, the

41 board may initiate an investigation and take all measures necessary to
42 find the facts of any potential violation, including issuing subpoenas to
43 compel the attendance and testimony of witnesses and the disclosure
44 of evidence, and may request the attorney general to bring an action to
45 enforce the subpoena.

46 4. If the board files a complaint with the administrative hearing
47 commission, the proceedings shall be conducted in accordance with the
48 provisions of chapter 621, RSMo. Upon a finding by the administrative
49 hearing commission that the grounds provided in subsection 2 of this
50 section for disciplinary action are met, the board may, either singularly
51 or in combination with other provisions of this chapter, impose a civil
52 penalty as provided for in section 327.077 against the person named in
53 the complaint.

327.077. 1. In disciplinary actions against licensed or unlicensed
2 persons, the board may issue an order imposing a civil penalty. Such
3 penalty shall not be imposed until the findings of fact and conclusions
4 of law by the administrative hearing commission have been delivered
5 to the board in accordance with section 621.110, RSMo. Further, no
6 civil penalty shall commence until a formal meeting and vote by the
7 board has been taken to impose such a penalty.

8 2. A civil penalty imposed under this section shall not exceed
9 five thousand dollars for each offense. Each day of a continued
10 violation constitutes a separate offense, with a maximum penalty of
11 twenty-five thousand dollars. In determining the amount of penalty to
12 be imposed, the board may consider any of the following:

13 (1) Whether the amount imposed will be a substantial deterrent
14 to the violation;

15 (2) The circumstances leading to the violation;

16 (3) The severity of the violation and the risk of harm to the
17 public;

18 (4) The economic benefits gained by the violator as a result of
19 noncompliance;

20 (5) The interest of the public.

21 3. Any final order imposing a civil penalty is subject to judicial
22 review upon the filing of a petition under section 536.100, RSMo, by any
23 person subject to the penalty.

24 4. Payment of a civil penalty shall be made within sixty days of

25 **filing the order, or if the order is stayed pending an appeal within ten**
26 **days after the court enters a final judgment in favor of the board. If**
27 **the penalty is not timely paid, the board shall notify the attorney**
28 **general. The attorney general may commence an action to recover the**
29 **amount of the penalty, including reasonable attorney fees and costs and**
30 **a surcharge of fifteen percent of the penalty plus ten percent per**
31 **annum on any amounts owed. In such action, the validity and**
32 **appropriateness of the final order imposing the civil penalty shall not**
33 **be subject to review.**

34 **5. An action to enforce an order under this section may be joined**
35 **with an action for an injunction.**

36 **6. Any offer of settlement to resolve a civil penalty under this**
37 **section shall be in writing, state that an action for imposition of a civil**
38 **penalty may be initiated by the attorney general representing the**
39 **board under this section, and identify any dollar amount as an offer of**
40 **settlement, which shall be negotiated in good faith through conference,**
41 **conciliation, and persuasion.**

42 **7. Failure to pay a civil penalty by any person licensed under**
43 **this chapter shall be grounds for refusing to renew or denying**
44 **reinstatement of a license or certificate of authority.**

45 **8. Penalties collected under this section shall be handled in**
46 **accordance with section 7 of article IX of the Missouri**
47 **Constitution. Such penalties shall not be considered a charitable**
48 **contribution for tax purposes.**

327.181. 1. Any person practices in Missouri as a professional engineer
2 who renders or offers to render or holds himself or herself out as willing or able
3 to render any service or creative work, the adequate performance of which
4 requires engineering education, training, and experience in the application of
5 special knowledge of the mathematical, physical, and engineering sciences to such
6 services or creative work as consultation, investigation, evaluation, planning and
7 design of engineering works and systems, engineering teaching of advanced
8 engineering subjects or courses related thereto, engineering surveys, the
9 coordination of services furnished by structural, civil, mechanical and electrical
10 engineers and other consultants as they relate to engineering work and the
11 inspection of construction for the purpose of compliance with drawings and
12 specifications, any of which embraces such service or work either public or
13 private, in connection with any utilities, structures, buildings, machines,

14 equipment, processes, work systems or projects and including such architectural
15 work as is incidental to the practice of engineering; or who uses the title
16 "professional engineer" or "consulting engineer" or the word "engineer" alone or
17 preceded by any word indicating or implying that such person is or holds himself
18 or herself out to be a professional engineer, or who shall use any word or words,
19 letters, figures, degrees, titles or other description indicating or implying that
20 such person is a professional engineer or is willing or able to practice engineering.

21 **2. Notwithstanding any provision of subsection 1 of this section,**
22 **any person using the word "engineer", "engineers", or "engineering",**
23 **alone or preceded by any word, or in combination with any words, may**
24 **do so without being subject to disciplinary action by the board so long**
25 **as such use is reflective of that person's profession or vocation and is**
26 **clearly not indicating or implying that such person is holding himself**
27 **or herself out as being a professional engineer or is willing or able to**
28 **practice engineering as defined in this section.**

327.441. 1. The board may refuse to issue any license or certificate of
2 authority required pursuant to this chapter for one or any combination of causes
3 stated in subsection 2 of this section. The board shall notify the applicant in
4 writing of the reasons for the refusal and shall advise the applicant of the
5 applicant's right to file a complaint with the administrative hearing commission
6 as provided by chapter 621, RSMo.

7 2. The board may cause a complaint to be filed with the administrative
8 hearing commission as provided by chapter 621, RSMo, against any holder of any
9 license or certificate of authority required by this chapter or any person who has
10 failed to renew or has surrendered such person's license or certificate of
11 authority, for any one or any combination of the following causes:

12 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or
13 alcoholic beverage to an extent that such use impairs a person's ability to perform
14 the work of any profession licensed or regulated by this chapter;

15 (2) The person has been finally adjudicated and found guilty, or entered
16 a plea of guilty or nolo contendere, in a criminal prosecution under the laws of
17 any state or of the United States, for any offense reasonably related to the
18 qualifications, functions or duties of any profession licensed or regulated under
19 this chapter, for any offense an essential element of which is fraud, dishonesty
20 or an act of violence, or for any offense involving moral turpitude, whether or not
21 sentence is imposed;

22 (3) Use of fraud, deception, misrepresentation or bribery in securing any
23 license or certificate of authority issued pursuant to this chapter or in obtaining
24 permission to take any examination given or required pursuant to this chapter;

25 (4) Obtaining or attempting to obtain any fee, charge, tuition or other
26 compensation by fraud, deception or misrepresentation;

27 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation
28 or dishonesty in the performance of the functions or duties of any profession
29 licensed or regulated by this chapter;

30 (6) Violation of, or assisting or enabling any person to violate, any
31 provision of this chapter, or of any lawful rule or regulation adopted pursuant to
32 this chapter;

33 (7) Impersonation of any person holding a license or certificate of
34 authority, or allowing any person to use his or her license or certificate of
35 authority, or diploma from any school;

36 (8) Disciplinary action against the holder of a license or a certificate of
37 authority, or other right to practice any profession regulated by this chapter
38 granted by another state, territory, federal agency or country upon grounds for
39 which revocation or suspension is authorized in this state;

40 (9) A person is finally adjudged incapacitated or disabled by a court of
41 competent jurisdiction;

42 (10) Assisting or enabling any person to practice or offer to practice any
43 profession licensed or regulated by this chapter who is not licensed and currently
44 eligible to practice pursuant to this chapter;

45 (11) Issuance of a professional license or a certificate of authority based
46 upon a material mistake of fact;

47 (12) Failure to display a valid license or certificate of authority if so
48 required by this chapter or any rule promulgated pursuant to this chapter;

49 (13) Violation of any professional trust or confidence;

50 (14) Use of any advertisement or solicitation which is false, misleading or
51 deceptive to the general public or persons to whom the advertisement or
52 solicitation is primarily directed.

53 3. After the filing of such complaint, the proceedings shall be conducted
54 in accordance with the provisions of chapter 621, RSMo. Upon a finding by the
55 administrative hearing commission that the grounds, provided in subsection 2 of
56 this section, for disciplinary action are met, the board may, singly or in
57 combination, censure or place the person named in the complaint on probation on

58 such terms and conditions as the board deems appropriate for a period not to
59 exceed five years, or may suspend, for a period not to exceed three years, **or**
60 **order a civil penalty under section 327.077**, or revoke the license or
61 certificate of authority of the person named in the complaint.

331.010. 1. The "practice of chiropractic" is defined as the science and art
2 of examination, diagnosis, adjustment, manipulation and treatment [of
3 malpositioned articulations and structures of the body,] both in inpatient and
4 outpatient settings, **by those methods commonly taught in any**
5 **chiropractic college or chiropractic program in a university which has**
6 **been accredited by the Council on Chiropractic Education, its successor**
7 **entity or approved by the board.** [The adjustment, manipulation, or
8 treatment shall be directed toward restoring and maintaining the normal
9 neuromuscular and musculoskeletal function and health.] It shall not include the
10 use of operative surgery, obstetrics, osteopathy, podiatry, nor the administration
11 or prescribing of any drug or medicine nor the practice of medicine. The practice
12 of chiropractic is declared not to be the practice of medicine and operative surgery
13 or osteopathy within the meaning of chapter 334, RSMo, and not subject to the
14 provisions of the chapter.

15 2. [A licensed chiropractor may practice chiropractic as defined in
16 subsection 1 of this section by those methods commonly taught in any chiropractic
17 college recognized and approved by the board.

18 3. Chiropractors may advise and instruct patients in all matters
19 pertaining to hygiene, nutrition, and sanitary measures as taught in any
20 chiropractic college recognized and approved by the board.

21 4.] The practice of chiropractic may include meridian
22 therapy/acupressure/acupuncture with certification as required by the board.

334.120. 1. There is hereby created and established a board to be known
2 as "The State Board of Registration for the Healing Arts" for the purpose of
3 registering, licensing and supervising all physicians and surgeons, and midwives
4 in this state. The board shall consist of nine members, including one voting
5 public member, to be appointed by the governor by and with the advice and
6 consent of the senate, **at least** five of whom shall be graduates of professional
7 schools [approved and accredited as reputable by the American Medical
8 Association or the Liaison Committee on Medical Education and] **accredited by**
9 **the Liaison Committee on Medical Education or recognized by the**
10 **Educational Commission for Foreign Medical Graduates, and at least**

11 two of whom shall be graduates of professional schools approved and accredited
12 as reputable by the American Osteopathic Association, and all of whom, except
13 the public member, shall be duly licensed and registered as physicians and
14 surgeons pursuant to the laws of this state. Each member must be a citizen of
15 the United States and must have been a resident of this state for a period of at
16 least one year next preceding his or her appointment and shall have been actively
17 engaged in the lawful and ethical practice of the profession of physician and
18 surgeon for at least five years next preceding his or her appointment. Not more
19 than four members shall be affiliated with the same political party. All members
20 shall be appointed for a term of four years. Each member of the board shall
21 receive as compensation an amount set by the board not to exceed fifty dollars for
22 each day devoted to the affairs of the board, and shall be entitled to
23 reimbursement of his or her expenses necessarily incurred in the discharge of his
24 or her official duties. The president of the Missouri State Medical Association,
25 for all medical physician appointments, or the president of the Missouri
26 Association of Osteopathic Physicians and Surgeons, for all osteopathic physician
27 appointments, in office at the time shall, at least ninety days prior to the
28 expiration of the term of the respective board member, other than the public
29 member, or as soon as feasible after the appropriate vacancy on the board
30 otherwise occurs, submit to the director of the division of professional registration
31 a list of five physicians and surgeons qualified and willing to fill the vacancy in
32 question, with the request and recommendation that the governor appoint one of
33 the five persons so listed, and with the list so submitted, the president of the
34 Missouri State Medical Association or the Missouri Association of Osteopathic
35 Physicians and Surgeons, as appropriate, shall include in his or her letter of
36 transmittal a description of the method by which the names were chosen by that
37 association.

38 2. The public member shall be at the time of his or her appointment a
39 citizen of the United States; a resident of this state for a period of one year and
40 a registered voter; a person who is not and never was a member of any profession
41 licensed or regulated pursuant to this chapter or the spouse of such person; and
42 a person who does not have and never has had a material, financial interest in
43 either the providing of the professional services regulated by this chapter, or an
44 activity or organization directly related to any profession licensed or regulated
45 pursuant to this chapter. All members, including public members, shall be
46 chosen from lists submitted by the director of the division of professional

47 registration. The duties of the public member shall not include the determination
48 of the technical requirements to be met for licensure or whether any person meets
49 such technical requirements or of the technical competence or technical judgment
50 of a licensee or a candidate for licensure.

335.016. As used in this chapter, unless the context clearly requires
2 otherwise, the following words and terms mean:

3 (1) "Accredited", the official authorization or status granted by an agency
4 for a program through a voluntary process;

5 (2) "Advanced practice nurse", a nurse who has had education beyond the
6 basic nursing education and is certified by a nationally recognized professional
7 organization as having a nursing specialty, or who meets criteria for advanced
8 practice nurses established by the board of nursing. The board of nursing may
9 promulgate rules specifying which professional nursing organization certifications
10 are to be recognized as advanced practice nurses, and may set standards for
11 education, training and experience required for those without such specialty
12 certification to become advanced practice nurses. Advanced practice nurses and
13 only such individuals may use the title "Advanced Practice Registered Nurse" and
14 the abbreviation "APRN";

15 (3) "Approval", official recognition of nursing education programs which
16 meet standards established by the board of nursing;

17 (4) "Board" or "state board", the state board of nursing;

18 (5) "Executive director", a qualified individual employed by the board as
19 executive secretary or otherwise to administer the provisions of this chapter
20 under the board's direction. Such person employed as executive director shall not
21 be a member of the board;

22 (6) "Inactive nurse", as defined by rule pursuant to section 335.061;

23 (7) **"Lapsed license status", as defined by rule under section**
24 **335.061;**

25 (8) [A] "Licensed practical nurse" or "practical nurse", a person licensed
26 pursuant to the provisions of this chapter to engage in the practice of practical
27 nursing;

28 [(8)] (9) "Licensure", the issuing of a license to practice professional or
29 practical nursing to candidates who have met the specified requirements and the
30 recording of the names of those persons as holders of a license to practice
31 professional or practical nursing;

32 [(9)] (10) "Practical nursing", the performance for compensation of

33 selected acts for the promotion of health and in the care of persons who are ill,
34 injured, or experiencing alterations in normal health processes. Such
35 performance requires substantial specialized skill, judgment and knowledge. All
36 such nursing care shall be given under the direction of a person licensed by a
37 state regulatory board to prescribe medications and treatments or under the
38 direction of a registered professional nurse. For the purposes of this chapter, the
39 term "direction" shall mean guidance or supervision provided by a person licensed
40 by a state regulatory board to prescribe medications and treatments or a
41 registered professional nurse, including, but not limited to, oral, written, or
42 otherwise communicated orders or directives for patient care. When practical
43 nursing care is delivered pursuant to the direction of a person licensed by a state
44 regulatory board to prescribe medications and treatments or under the direction
45 of a registered professional nurse, such care may be delivered by a licensed
46 practical nurse without direct physical oversight;

47 **[(10)] (11)** "Professional nursing", the performance for compensation of
48 any act which requires substantial specialized education, judgment and skill
49 based on knowledge and application of principles derived from the biological,
50 physical, social and nursing sciences, including, but not limited to:

51 (a) Responsibility for the teaching of health care and the prevention of
52 illness to the patient and his or her family;

53 (b) Assessment, nursing diagnosis, nursing care, and counsel of persons
54 who are ill, injured or experiencing alterations in normal health processes;

55 (c) The administration of medications and treatments as prescribed by a
56 person licensed by a state regulatory board to prescribe medications and
57 treatments;

58 (d) The coordination and assistance in the delivery of a plan of health care
59 with all members of a health team;

60 (e) The teaching and supervision of other persons in the performance of
61 any of the foregoing;

62 **[(11)] (12)** A "registered professional nurse" or "registered nurse", a
63 person licensed pursuant to the provisions of this chapter to engage in the
64 practice of professional nursing;

65 **(13) "Retired license status", any person licensed in this state**
66 **under this chapter who retires from such practice. Such person shall**
67 **file with the board an affidavit, on a form to be furnished by the board,**
68 **which states the date on which the licensee retired from such practice,**

69 **an intent to retire from the practice for at least two years, and such**
70 **other facts as tend to verify the retirement as the board may deem**
71 **necessary; but if the licensee thereafter reengages in the practice, the**
72 **licensee shall renew his or her license with the board as provided by**
73 **this chapter and by rule and regulation.**

335.036. 1. The board shall:

2 (1) Elect for a one-year term a president and a secretary, who shall also
3 be treasurer, and the board may appoint, employ and fix the compensation of a
4 legal counsel and such board personnel as defined in subdivision (4) of subsection
5 16 of section 620.010, RSMo, as are necessary to administer the provisions of
6 sections 335.011 to 335.096;

7 (2) Adopt and revise such rules and regulations as may be necessary to
8 enable it to carry into effect the provisions of sections 335.011 to 335.096;

9 (3) Prescribe minimum standards for educational programs preparing
10 persons for licensure pursuant to the provisions of sections 335.011 to 335.096;

11 (4) Provide for surveys of such programs every five years and in addition
12 at such times as it may deem necessary;

13 (5) Designate as "approved" such programs as meet the requirements of
14 sections 335.011 to 335.096 and the rules and regulations enacted pursuant to
15 such sections; and the board shall annually publish a list of such programs;

16 (6) Deny or withdraw approval from educational programs for failure to
17 meet prescribed minimum standards;

18 (7) Examine, license, and cause to be renewed the licenses of duly
19 qualified applicants;

20 (8) Cause the prosecution of all persons violating provisions of sections
21 335.011 to 335.096, and may incur such necessary expenses therefor;

22 (9) Keep a record of all the proceedings; and make an annual report to the
23 governor and to the director of the department of economic development;

24 **(10) Establish an impaired nurse program.**

25 2. The board shall set the amount of the fees which this chapter
26 authorizes and requires by rules and regulations. The fees shall be set at a level
27 to produce revenue which shall not substantially exceed the cost and expense of
28 administering this chapter.

29 3. All fees received by the board pursuant to the provisions of sections
30 335.011 to 335.096 shall be deposited in the state treasury and be placed to the
31 credit of the state board of nursing fund. All administrative costs and expenses

32 of the board shall be paid from appropriations made for those purposes.

33 4. The provisions of section 33.080, RSMo, to the contrary
34 notwithstanding, money in this fund shall not be transferred and placed to the
35 credit of general revenue until the amount in the fund at the end of the biennium
36 exceeds two times the amount of the appropriation from the board's funds for the
37 preceding fiscal year or, if the board requires by rule, permit renewal less
38 frequently than yearly, then three times the appropriation from the board's funds
39 for the preceding fiscal year. The amount, if any, in the fund which shall lapse
40 is that amount in the fund which exceeds the appropriate multiple of the
41 appropriations from the board's funds for the preceding fiscal year.

42 5. Any rule or portion of a rule, as that term is defined in section 536.010,
43 RSMo, that is created under the authority delegated in this chapter shall become
44 effective only if it complies with and is subject to all of the provisions of chapter
45 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority
46 delegated prior to August 28, 1999, is of no force and effect and
47 repealed. Nothing in this section shall be interpreted to repeal or affect the
48 validity of any rule filed or adopted prior to August 28, 1999, if it fully complied
49 with all applicable provisions of law. This section and chapter 536, RSMo, are
50 nonseverable and if any of the powers vested with the general assembly pursuant
51 to chapter 536, RSMo, to review, to delay the effective date or to disapprove and
52 annul a rule are subsequently held unconstitutional, then the grant of
53 rulemaking authority and any rule proposed or adopted after August 28, 1999,
54 shall be invalid and void.

335.066. 1. The board may refuse to issue **or reinstate** any certificate
2 of registration or authority, permit or license required pursuant to [sections
3 335.011 to 335.096] **chapter 335** for one or any combination of causes stated in
4 subsection 2 of this section **or the board may, as a condition to issuing or**
5 **reinstating any such permit or license, require a person to submit**
6 **himself or herself for identification, intervention, treatment, or**
7 **rehabilitation by the impaired nurse program as provided in section**
8 **335.067**. The board shall notify the applicant in writing of the reasons for the
9 refusal and shall advise the applicant of his or her right to file a complaint with
10 the administrative hearing commission as provided by chapter 621, RSMo.

11 2. The board may cause a complaint to be filed with the administrative
12 hearing commission as provided by chapter 621, RSMo, against any holder of any
13 certificate of registration or authority, permit or license required by sections

14 335.011 to 335.096 or any person who has failed to renew or has surrendered his
15 or her certificate of registration or authority, permit or license for any one or any
16 combination of the following causes:

17 (1) Use or unlawful possession of any controlled substance, as defined in
18 chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a
19 person's ability to perform the work of any profession licensed or regulated by
20 sections 335.011 to 335.096;

21 (2) The person has been finally adjudicated and found guilty, or entered
22 a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws
23 of any state or of the United States, for any offense reasonably related to the
24 qualifications, functions or duties of any profession licensed or regulated
25 pursuant to sections 335.011 to 335.096, for any offense an essential element of
26 which is fraud, dishonesty or an act of violence, or for any offense involving moral
27 turpitude, whether or not sentence is imposed;

28 (3) Use of fraud, deception, misrepresentation or bribery in securing any
29 certificate of registration or authority, permit or license issued pursuant to
30 sections 335.011 to 335.096 or in obtaining permission to take any examination
31 given or required pursuant to sections 335.011 to 335.096;

32 (4) Obtaining or attempting to obtain any fee, charge, tuition or other
33 compensation by fraud, deception or misrepresentation;

34 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation
35 or dishonesty in the performance of the functions or duties of any profession
36 licensed or regulated by sections 335.011 to 335.096;

37 (6) Violation of, or assisting or enabling any person to violate, any
38 provision of sections 335.011 to 335.096, or of any lawful rule or regulation
39 adopted pursuant to sections 335.011 to 335.096;

40 (7) Impersonation of any person holding a certificate of registration or
41 authority, permit or license or allowing any person to use his or her certificate of
42 registration or authority, permit, license or diploma from any school;

43 (8) Disciplinary action against the holder of a license or other right to
44 practice any profession regulated by sections 335.011 to 335.096 granted by
45 another state, territory, federal agency or country upon grounds for which
46 revocation or suspension is authorized in this state;

47 (9) A person is finally adjudged insane or incompetent by a court of
48 competent jurisdiction;

49 (10) Assisting or enabling any person to practice or offer to practice any

50 profession licensed or regulated by sections 335.011 to 335.096 who is not
51 registered and currently eligible to practice pursuant to sections 335.011 to
52 335.096;

53 (11) Issuance of a certificate of registration or authority, permit or license
54 based upon a material mistake of fact;

55 (12) Violation of any professional trust or confidence;

56 (13) Use of any advertisement or solicitation which is false, misleading or
57 deceptive to the general public or persons to whom the advertisement or
58 solicitation is primarily directed;

59 (14) Violation of the drug laws or rules and regulations of this state, any
60 other state or the federal government;

61 (15) Placement on an employee disqualification list or other related
62 restriction or finding pertaining to employment within a health-related profession
63 issued by any state or federal government or agency following final disposition by
64 such state or federal government or agency;

65 **(16) Failure to successfully complete the impaired nurse**
66 **program.**

67 3. After the filing of such complaint, the proceedings shall be conducted
68 in accordance with the provisions of chapter 621, RSMo. Upon a finding by the
69 administrative hearing commission that the grounds, provided in subsection 2 of
70 this section, for disciplinary action are met, the board may, singly or in
71 combination, censure or place the person named in the complaint on probation on
72 such terms and conditions as the board deems appropriate for a period not to
73 exceed five years, or may suspend, for a period not to exceed three years, or
74 revoke the license, certificate, or permit.

75 4. **For any hearing before the full board, the board shall cause**
76 **the notice of the hearing to be served upon such licensee in person or**
77 **by certified mail to the licensee at the licensee's last known address. If**
78 **service cannot be accomplished in person or by certified mail, notice**
79 **by publication as described in subsection 3 of section 506.160, RSMo,**
80 **shall be allowed; any representative of the board is authorized to act**
81 **as a court or judge would in that section; any employee of the board is**
82 **authorized to act as a clerk would in that section.**

83 5. An individual whose license has been revoked shall wait one year from
84 the date of revocation to apply for relicensure. Relicensure shall be at the
85 discretion of the board after compliance with all the requirements of sections

86 335.011 to 335.096 relative to the licensing of an applicant for the first time.

87 [5.] 6. The board may notify the proper licensing authority of any other
88 state concerning the final disciplinary action determined by the board on a license
89 in which the person whose license was suspended or revoked was also licensed of
90 the suspension or revocation.

91 [6.] 7. Any person, organization, association or corporation who reports
92 or provides information to the board of nursing pursuant to the provisions of
93 sections 335.011 to 335.259 and who does so in good faith shall not be subject to
94 an action for civil damages as a result thereof.

95 8. **If the board concludes that a nurse has committed an act or**
96 **is engaging in a course of conduct which would be grounds for**
97 **disciplinary action which constitutes a clear and present danger to the**
98 **public health and safety, the board may file a complaint before the**
99 **administrative hearing commission requesting an expedited hearing**
100 **and specifying the activities which give rise to the danger and the**
101 **nature of the proposed restriction or suspension of the nurse's**
102 **license. Within fifteen days after service of the complaint on the nurse,**
103 **the administrative hearing commission shall conduct a preliminary**
104 **hearing to determine whether the alleged activities of the nurse appear**
105 **to constitute a clear and present danger to the public health and safety**
106 **which justify that the nurse's license be immediately restricted or**
107 **suspended. The burden of proving that a nurse is a clear and present**
108 **danger to the public health and safety shall be upon the state board of**
109 **nursing. The administrative hearing commission shall issue its**
110 **decision immediately after the hearing and shall either grant to the**
111 **board the authority to suspend or restrict the license or dismiss the**
112 **action.**

113 9. **If the administrative hearing commission grants temporary**
114 **authority to the board to restrict or suspend the nurse's license, such**
115 **temporary authority of the board shall become final authority if there**
116 **is no request by the nurse for a full hearing within thirty days of the**
117 **preliminary hearing. The administrative hearing commission shall, if**
118 **requested by the nurse named in the complaint, set a date to hold a full**
119 **hearing under the provisions of chapter 621, RSMo, regarding the**
120 **activities alleged in the initial complaint filed by the board.**

121 10. **If the administrative hearing commission refuses to grant**
122 **temporary authority to the board or restrict or suspend the nurse's**

123 license under subsection 8 of this section, such dismissal shall not bar
124 the board from initiating a subsequent disciplinary action on the same
125 grounds.

335.067. 1. The state board of nursing may establish an impaired
2 nurse program to promote the early identification, intervention,
3 treatment, and rehabilitation of nurses who may be impaired by
4 reasons of illness, substance abuse, or as a result of any mental
5 condition. This program shall be available to anyone holding a current
6 license and may be entered voluntarily, as part of an agreement with
7 the board of nursing, or as a condition of a disciplinary order entered
8 by the board of nursing.

9 2. The board may enter into a contractual agreement with a
10 nonprofit corporation or a nursing association for the purpose of
11 creating, supporting, and maintaining a program to be designated as
12 the impaired nurse program. The board may promulgate
13 administrative rules subject to the provisions of this section and
14 chapter 536, RSMo, to effectuate and implement any program formed
15 pursuant to this section.

16 3. The board may expend appropriated funds necessary to
17 provide for operational expenses of the program formed pursuant to
18 this section.

19 4. Any member of the program, as well as any administrator,
20 staff member, consultant, agent, or employee of the program, acting
21 within the scope of his or her duties and without actual malice, and all
22 other persons who furnish information to the program in good faith
23 and without actual malice, shall not be liable for any claim of damages
24 as a result of any statement, decision, opinion, investigation, or action
25 taken by the program, or by any individual member of the program.

26 5. All information, interviews, reports, statements, memoranda,
27 or other documents furnished to or produced by the program, as well
28 as communications to or from the program, any findings, conclusions,
29 interventions, treatment, rehabilitation, or other proceedings of the
30 program which in any way pertain to a licensee who may be, or who
31 actually is, impaired shall be privileged and confidential.

32 6. All records and proceedings of the program which pertain or
33 refer to a licensee who may be, or who actually is, impaired shall be
34 privileged and confidential and shall be used by the program and its

35 members only in the exercise of the proper function of the program and
36 shall not be considered public records under chapter 610, RSMo, and
37 shall not be subject to court subpoena or subject to discovery or
38 introduction as evidence in any civil, criminal, or administrative
39 proceedings except as provided in subsection 7 of this section.

40 7. The program shall disclose information relative to an impaired
41 licensee only when:

42 (1) It is essential to disclose the information to further the
43 intervention, treatment, or rehabilitation needs of the impaired
44 licensee and only to those persons or organizations with a need to
45 know;

46 (2) Its release is authorized in writing by the impaired licensee;

47 (3) A licensee has breached his or her contract with the program.
48 In this instance, the breach may be reported only to the board of
49 nursing; or

50 (4) The information is subject to a court order.

51 8. When pursuing discipline against a licensed practical nurse,
52 registered nurse, or advanced practice registered nurse for violating
53 one or more causes stated in subsection 2 of section 335.066, the board
54 may, if the violation is related to chemical dependency or mental
55 health, require that the licensed practical nurse, registered nurse, or
56 advanced practice registered nurse complete the impaired nurse
57 program under such terms and conditions as are agreed to by the board
58 and the licensee for a period not to exceed five years. If the licensee
59 violates a term or condition of an impaired nurse program agreement
60 entered into under this section, the board may elect to pursue
61 discipline against the licensee pursuant to chapter 621, RSMo, for the
62 original conduct that resulted in the impaired nurse program
63 agreement, or for any subsequent violation of subsection 2 of section
64 335.066. While the licensee participates in the impaired nurse program,
65 the time limitations of section 620.154, RSMo, shall toll under
66 subsection 7 of section 620.154, RSMo. All records pertaining to the
67 impaired nurse program agreements are confidential and may only be
68 released under subdivision (7) of subsection 14 of section 620.010,
69 RSMo.

70 9. The board may disclose information and records to the
71 impaired nurse program to assist the program in the identification,

72 **intervention, treatment, and rehabilitation of licensed practical nurses,**
73 **registered nurses, or advanced practice registered nurses who may be**
74 **impaired by reason of illness, substance abuse, or as the result of any**
75 **physical or mental condition. The program shall keep all information**
76 **and records provided by the board confidential to the extent the board**
77 **is required to treat the information and records closed to the public**
78 **under chapter 620, RSMo.**

335.068. 1. [If the board finds merit to a complaint by an individual
2 incarcerated or under the care and control of the department of corrections and
3 takes further investigative action, no documentation may appear on file or
4 disciplinary action may be taken in regards to the licensee's license unless the
5 provisions of subsection 2 of section 335.066 have been violated. Any case file
6 documentation that does not result in the board filing an action pursuant to
7 subsection 2 of section 335.066 shall be destroyed within three months after the
8 final case disposition by the board. No notification to any other licensing board
9 in another state or any national registry regarding any investigative action shall
10 be made unless the provisions of subsection 2 of section 335.066 have been
11 violated.

12 2. Upon written request of the nurse subject to a complaint, prior to
13 August 28, 1999, by an individual incarcerated or under the care and control of
14 the department of corrections that did not result in the board filing an action
15 pursuant to subsection 2 of section 335.066, the board and the division of
16 professional registration shall in a timely fashion:

17 (1) Destroy all documentation regarding the complaint;] **If the board**
18 **determines that a complaint does not constitute a violation of the**
19 **nursing practice act or that the complaint is unsubstantiated, then that**
20 **complaint, and all documentation related to it, shall be deemed a sealed**
21 **record. If the administrative hearing commission or a court of**
22 **competent jurisdiction makes a finding that an action brought by the**
23 **board does not constitute sufficient grounds to discipline the license of**
24 **a licensee, that complaint, and all documentation related to it, shall be**
25 **deemed a sealed record.**

26 2. For purposes of this section, a "sealed record" shall mean that
27 the complaint to which it refers shall be deemed to never have
28 occurred. The licensee may properly reply that no record exists with
29 respect to such complaint upon any inquiry in the matter. A sealed

30 record shall not be disclosed or reported to any other state agency,
31 other board of nursing, or any other organization without express,
32 written permission of the licensee.

33 **3. Upon determination by the board that a complaint is not a**
34 **violation of the nursing practice act or that the complaint is**
35 **unsubstantiated, or upon the conclusion of litigation resulting in a**
36 **finding of insufficient grounds to impose discipline upon a licensee's**
37 **license, the board and the division of professional registration shall, in**
38 **a timely fashion:**

39 **[(2)] (1)** Notify any other licensing board in another state or any national
40 registry regarding the board's action if they have been previously notified of the
41 complaint; and

42 **[(3)] (2)** Send a letter to the licensee that clearly states that the board
43 found the complaint to be unsubstantiated[, that the board has taken the
44 requested action,] **or that litigation resulted in a finding that there are**
45 **insufficient grounds to discipline the licensee's license, that the board**
46 **has sealed all records concerning the complaint,** and notify the licensee of
47 the provisions of subsection [3] 4 of this section.

48 **[3.] 4.** Any person who has been the subject of an unsubstantiated
49 complaint as provided in subsection 1 [or 2] of this section shall not be required
50 to disclose the existence of such complaint in subsequent applications or
51 representations relating to their nursing professions.

52 **5. Nothing contained in this section shall prevent the board of**
53 **nursing from maintaining such records as to ensure that all complaints**
54 **received by the board are properly investigated and reviewed by the**
55 **board and the results of that investigation are reported to the**
56 **appropriate parties.**

335.076. 1. Any person who holds a license to practice professional
2 nursing in this state may use the title "Registered Professional Nurse" and the
3 abbreviation "R.N.". No other person [may] **shall** use the title "Registered
4 Professional Nurse" or the abbreviation "R.N.". No other person shall assume any
5 title or use any abbreviation or any other words, letters, signs, or devices to
6 indicate that the person using the same is a registered professional nurse.

7 2. Any person who holds a license to practice practical nursing in this
8 state may use the title "Licensed Practical Nurse" and the abbreviation "L.P.N."
9 No other person [may] **shall** use the title "Licensed Practical Nurse" or the

10 abbreviation "L.P.N.". No other person shall assume any title or use any
11 abbreviation or any other words, letters, signs, or devices to indicate that the
12 person using the same is a licensed practical nurse.

13 **3. Any person who holds a license or recognition to practice**
14 **advanced practice nursing in this state may use the title "Advanced**
15 **Practice Registered Nurse", and the abbreviation "APRN", and any other**
16 **title designations appearing on his or her license. No other person**
17 **shall use the title "Advanced Practice Registered Nurse" or the**
18 **abbreviation "APRN". No other person shall assume any title or use any**
19 **abbreviation or any other words, letters, signs, or devices to indicate**
20 **that the person using the same is an advanced practice registered**
21 **nurse.**

22 **4. No person shall practice or offer to practice professional nursing [or],**
23 **practical nursing, or advanced practice nursing in this state [for**
24 **compensation] or use any title, sign, abbreviation, card, or device to indicate that**
25 **such person is a practicing professional nurse [or], practical nurse, or advanced**
26 **practice nurse unless he or she has been duly licensed under the provisions**
27 **of [sections 335.011 to 335.096] this chapter.**

28 **5. In the interest of public safety and consumer awareness, it is**
29 **unlawful for any person to use the title "nurse" in reference to himself**
30 **or herself in any capacity, except individuals who are or have been**
31 **licensed as a registered nurse, licensed practical nurse, or advanced**
32 **practice registered nurse under this chapter.**

 335.096. Any person who violates any of the provisions of [sections
2 335.011 to 335.096]chapter 335 is guilty of a class [A misdemeanor] **D felony**
3 and, upon conviction, shall be punished as provided by law.

 335.097. 1. The president or secretary of the board of nursing may
2 administer oaths, issue subpoenas duces tecum and require production of
3 documents and records. Subpoenas duces tecum shall be served by a person
4 authorized to serve subpoenas of courts of record. In lieu of requiring attendance
5 of a person to produce original documents in response to a subpoena duces tecum,
6 the board may require sworn copies of such documents to be filed with it or
7 delivered to its designated representative.

8 2. The board may enforce its subpoenas duces tecum by applying to a
9 circuit court of Cole County, the county of the investigation, hearing or
10 proceeding, or any county where the person resides or may be found, for an order

11 upon any person who shall fail to comply with a subpoena duces tecum to show
12 cause why such subpoena should not be enforced, which such order and a copy of
13 the application therefor shall be served upon the person in the same manner as
14 a summons in a civil action, and if the circuit court shall, after a hearing,
15 determine that the subpoena duces tecum should be sustained and enforced, such
16 court shall proceed to enforce the subpoena duces tecum in the same manner as
17 though the subpoena duces tecum had been issued in a civil case in the circuit
18 court.

19 **3. Reports made to the board under the mandated reporting**
20 **requirements as defined in chapter 383, RSMo, shall not be deemed a**
21 **violation of the federal health insurance portability and accountability**
22 **act (HIPAA) and the privacy rules located in the act because the**
23 **Missouri state board of nursing qualifies as a health oversight agency**
24 **as defined in the HIPAA privacy rules.**

335.212. As used in sections 335.212 to 335.242, the following terms
2 mean:

3 (1) "Board", the Missouri state board of nursing;

4 (2) "Department", the Missouri department of health and senior services;

5 (3) "Director", director of the Missouri department of health and senior
6 services;

7 (4) "Eligible student", a resident who has been accepted as a full-time
8 student in a formal course of instruction leading to an associate degree, a
9 diploma, a bachelor of science, or a master of science in nursing or leading to the
10 completion of educational requirements for a licensed practical nurse;

11 (5) "Participating school", an institution within this state which is
12 approved by the board for participation in the professional and practical nursing
13 student loan program established by sections 335.212 to 335.242, having a
14 nursing department and offering a course of instruction based on nursing theory
15 and clinical nursing experience;

16 (6) "Qualified applicant", an eligible student approved by the board for
17 participation in the professional and practical nursing student loan program
18 established by sections 335.212 to 335.242;

19 (7) "Qualified employment", employment on a full-time basis in Missouri
20 in a position requiring licensure as a licensed practical nurse or registered
21 professional nurse in any hospital as defined in section 197.020, RSMo, or [public
22 or nonprofit] in any agency, institution, or organization located in an area of

23 need as determined by the department of health and senior services. Any
24 forgiveness of such principal and interest for any qualified applicant engaged in
25 qualified employment on a less than full-time basis may be prorated to reflect the
26 amounts provided in this section;

27 (8) "Resident", any person who has lived in this state for one or more
28 years for any purpose other than the attending of an educational institution
29 located within this state.

336.010. [Any one or any combination of the following practices
2 constitutes the "practice of optometry":

3 (1) The examination of the human eye, without the use of drugs,
4 medicines or surgery, to ascertain the presence of defects or abnormal conditions
5 which can be corrected by the use of lenses, prisms or ocular exercises;

6 (2) The employment of objective or subjective mechanical means to
7 determine the accommodative or refractive states of the human eye or the range
8 of power of vision of the human eye;

9 (3) The prescription or adaptation without the use of drugs, medicines or
10 surgery, of lenses, prisms, or ocular exercises to correct defects or abnormal
11 conditions of the human eye or to adjust the human eye to the conditions of
12 special occupation.]

13 **1. The "practice of optometry" is the examination, diagnosis,**
14 **treatment, and preventative care of the eye, adnexa, and vision. The**
15 **practice includes, but is not limited to:**

16 (1) **The examination of the eye, adnexa, and vision to determine**
17 **the accommodative and refractive states, visual perception, conditions,**
18 **and diseases;**

19 (2) **The diagnosis and treatment of conditions or diseases of the**
20 **eye, adnexa, and vision;**

21 (3) **The performance of diagnostic procedures and ordering of**
22 **laboratory and imaging tests for the diagnosis of vision and conditions**
23 **and diseases of the eye and adnexa;**

24 (4) **The prescription and administration of pharmaceutical**
25 **agents, excluding injectable agents, for the purpose of examination,**
26 **diagnosis, and treatment of vision and conditions or diseases of the eye**
27 **and adnexa;**

28 (5) **The removal of superficial foreign bodies from the eye or**
29 **adnexa;**

30 **(6) The employment of objective or subjective mechanical means**
31 **to determine the accommodative or refractive states of the human eye;**

32 **(7) The prescription or adaptation of lenses, prisms, devices, or**
33 **ocular exercises to correct defects or abnormal conditions of the human**
34 **eye or vision or to adjust the human eye to special conditions;**

35 **(8) The prescription and fitting of ophthalmic or contact lenses**
36 **and devices;**

37 **(9) The prescription and administration of vision therapy; and**

38 **(10) The prescription and administration of low vision care.**

39 **2. An optometrist may not perform surgery, including the use of**
40 **lasers for treatment of any disease or condition or for the correction of**
41 **refractive error.**

42 **3. As used in this chapter, except as the context may otherwise**
43 **require, the following terms mean:**

44 **(1) "Eye", the human eye;**

45 **(2) "Adnexa", all structures adjacent to the eye and the**
46 **conjunctiva, lids, lashes, and lacrimal system;**

47 **(3) "Board", the Missouri state board of optometry;**

48 **(4) "Diagnostic pharmaceutical agents", topically applied**
49 **pharmaceuticals used for the purpose of conducting an examination of**
50 **the eye, adnexa, and vision;**

51 **(5) "Low vision care", the examination, treatment, and**
52 **management of patients with visual impairments not treatable by**
53 **conventional eyewear or contact lenses and may include a vision**
54 **rehabilitation program to enhance remaining vision skills;**

55 **(6) "Pharmaceutical agents", any diagnostic and therapeutic drug**
56 **or combination of drugs that assist the diagnosis, prevention,**
57 **treatment, or mitigation of abnormal conditions or symptoms of the**
58 **human eye, adnexa, and vision;**

59 **(7) "Therapeutic pharmaceutical agents", those pharmaceuticals,**
60 **excluding injectable agents, used for the treatment of conditions or**
61 **diseases of the eye, adnexa, and vision;**

62 **(8) "Vision therapy", a treatment regiment to improve a patient's**
63 **diagnosed visual dysfunctions, prevent the development of visual**
64 **problems, or enhance visual performance to meet the defined needs of**
65 **the patient.**

336.020. It shall be unlawful for any person to practice [optometry or], to

2 attempt to practice [optometry], or to **offer to practice optometry, or to be**
3 **employed by [a] any person**, corporation, partnership, [or] association [for the
4 purpose of practicing optometry], **or other entity that practice or attempts**
5 **to practice** without a [certificate of registration] **license** as [a registered] **an**
6 **optometrist** issued by the [state] board [of optometry]. **Nothing in this section**
7 **shall be construed to prohibit a person licensed or registered under**
8 **chapter 334, RSMo, whose license is in good standing from acting**
9 **within the scope of his or her practice or a person licensed as an**
10 **optometrist in any state to serve as an expert witness in a civil,**
11 **criminal, or administrative proceeding.**

336.030. 1. A person is qualified to receive a [certificate of registration
2 as a registered] **license as an optometrist:**

- 3 (1) Who is at least twenty-one years of age;
- 4 (2) Who is of good moral character [and];
- 5 (3) Who has graduated from a **college or** school of optometry approved
6 by the [state] board [of optometry]; **and**
- 7 (4) Who has [passed a satisfactory examination conducted by or approved
8 by the state board of optometry to determine his fitness to receive a certificate of
9 registration as a registered optometrist] **met either of the following**
10 **conditions:**

11 (a) **Has passed an examination satisfactory to, conducted by, or**
12 **approved by the board to determine his or her fitness to receive a**
13 **license as an optometrist with pharmaceutical certification and met the**
14 **requirements of licensure as may be required by rule and regulation;**
15 **or**

16 (b) **Has been licensed and has practiced for at least three years**
17 **in the five years immediately preceding the date of application with**
18 **pharmaceutical certification in another state, territory, country, or**
19 **province in which the requirements are substantially equivalent to the**
20 **requirements in this state and has satisfactorily completed any**
21 **practical examination or any examination on Missouri laws as may be**
22 **required by rule and regulation.**

23 2. **The board may adopt reasonable rules and regulations**
24 **providing for the examination and certification of optometrists who**
25 **apply to the board for the authority to practice optometry in this state.**

336.040. Every person who desires to obtain a [certificate of registration]

2 **license to practice optometry** shall apply [therefor] to the [state] board [of
3 optometry], in writing, on [blanks] **forms** prepared and furnished by the [state]
4 board [of optometry]. [Each] **The** application shall [contain proof of the
5 particular] **state the required** qualifications [required] of the applicant, [shall
6 contain a statement that it is] **that the representations are** made under oath
7 or affirmation and [that its representations] are true and correct to the
8 **applicant's** best knowledge [and belief of the person signing same], subject to
9 the penalties of making a false affidavit or declaration and shall be accompanied
10 by the examination fee.

336.050. The [state] board [of optometry] shall hold examinations of
2 applicants for [certificates of registration as registered optometrists] **a license**
3 **as an optometrist** at such times and places as it may determine. The
4 examination of applicants for [certificates of registration as registered
5 optometrists] **a license as an optometrist** may include both practical
6 demonstrations and written and oral tests, and shall embrace the subjects
7 normally taught in schools of optometry approved by the [state] board [of
8 optometry].

336.060. Whenever the provisions of this chapter have been complied
2 with, and upon payment of the [certificate] **license** fee, the [state] board [of
3 optometry] shall issue a [certificate of registration as a registered optometrist]
4 **license as an optometrist**.

336.070. Every holder of [a certificate of registration] **an optometry**
2 **license** shall display [it] **the license** in a conspicuous place in his **or her**
3 principal office, place of business or employment. Whenever a [registered]
4 **licensed** optometrist practices optometry [outside of, or] away from[,] his **or her**
5 principal office, [places of business or employment, he] **the licensee** shall
6 [deliver to each patient in his care a certificate of identification or provide other
7 identification as authorized by rule and regulation] **obtain a duplicate**
8 **renewal license from the board and display it in clear view of the**
9 **public**.

336.080. 1. Every [registered] **licensed** optometrist who continues in
2 active practice or service shall, on or before the renewal date, renew his
3 [certificate of registration] **or her license** and pay the required renewal fee and
4 present satisfactory evidence to the [state] board [of optometry] of his **or her**
5 attendance for a minimum of [eight hours each year] **thirty-two hours of**
6 **board-approved continuing education, or their equivalent** during the

7 preceding [licensing period at educational optometric programs, or their
8 equivalent, that have been approved by the board] **two-year continuing**
9 **education reporting period as established by rule and regulation.** The
10 [attendance or equivalent] **continuing education requirement** may be waived
11 by the board upon presentation to it of satisfactory evidence of the illness of the
12 optometrist or for other good cause as defined by rule and regulation. The board
13 shall not reject any such application if approved programs are not available
14 within the state of Missouri. Every [certificate of registration] **license** which has
15 not been renewed on or before the renewal date shall expire.

16 **2.** Any [registered] **licensed** optometrist who permits his [certificate] **or**
17 **her license** to expire may renew it within five years of expiration upon payment
18 of the required [restoration] **reactivation** fee and presentation of satisfactory
19 evidence to the [state] board [of optometry] of his **or her** attendance for a
20 minimum of [twenty-four] **forty-eight** hours of **board-approved continuing**
21 **education, or their equivalent,** during the five years [at educational
22 programs, or their equivalent, that have been approved by the board. The
23 attendance or equivalent may be waived by the board upon presentation to it of
24 satisfactory evidence of the illness of the optometrist or for other good cause as
25 defined by rule and regulation].

336.140. 1. The board shall hold meetings for the examination of
2 applicants for registration and the transaction of other business pertaining to its
3 duties at least once in six months. [The board shall give thirty days' public notice
4 of the time and place of this meeting.] Each member of the board shall receive as
5 compensation an amount set by the board not to exceed fifty dollars for each day
6 devoted to the affairs of the board, and shall be entitled to reimbursement of his
7 expenses necessarily incurred in the discharge of his official duties. All fees
8 payable under this chapter shall be collected by the division of professional
9 registration, which shall transmit the same to the department of revenue for
10 deposit in the state treasury to the credit of a fund to be known as the
11 "Optometry Fund". All costs and expenses incurred in administering the
12 provisions of this chapter shall be appropriated and paid from this fund.

13 **2.** The provisions of section 33.080, RSMo, to the contrary
14 notwithstanding, money in this fund shall not be transferred and placed to the
15 credit of general revenue until the amount in the fund at the end of the biennium
16 exceeds two times the amount of the appropriation from the board's funds for the
17 preceding fiscal year or, if the board requires by rule permit renewal less

18 frequently than yearly, then three times the appropriation from the board's funds
19 for the preceding fiscal year. The amount, if any, in the fund which shall lapse
20 is that amount in the fund which exceeds the appropriate multiple of the
21 appropriations from the board's funds for the preceding fiscal year.

336.160. 1. The [state] board [of optometry] may adopt reasonable rules
2 and regulations within the scope and terms of this chapter for the proper
3 administration and enforcement thereof. It may employ such board personnel,
4 as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, as it
5 deems necessary within appropriations therefor.

6 2. The board shall set the amount of the fees which this chapter
7 authorizes and requires by rules and regulations promulgated pursuant to section
8 536.021, RSMo. The fees shall be set at a level to produce revenue which shall
9 not substantially exceed the cost and expense of administering this chapter.

336.220. 1. [The state board of optometry may adopt reasonable rules and
2 regulations providing for the examination and certification of registered
3 optometrists who apply to the board for authority to administer pharmaceutical
4 agents in the practice of optometry. Such pharmaceutical agents may be
5 "diagnostic pharmaceutical agents" or "therapeutic pharmaceutical agents". As
6 used in this section, the term "diagnostic pharmaceutical agents" means those
7 topically applied pharmaceuticals used for the purpose of conducting an
8 examination upon the eye or adnexa, and the term "therapeutic pharmaceutical
9 agents" means those pharmaceuticals, excluding injectable agents, used for the
10 treatment of conditions or diseases of the eye or the adnexa.

11 2. No registered optometrist shall administer diagnostic pharmaceutical
12 agents or therapeutic pharmaceutical agents in the practice of optometry unless
13 such person submits to the state board of optometry evidence of satisfactory
14 completion of: a course of instruction in general and ocular pharmacology; which
15 includes at least one hundred hours of approved, supervised, clinical training in
16 the examination, diagnosis and treatment of conditions of the human eye and
17 adnexa in a program supervised by a board-certified ophthalmologist; and such
18 other educational requirements or examination as may be required by the board,
19 and is certified by the board as qualified to administer diagnostic pharmaceutical
20 agents and therapeutic pharmaceutical agents in the practice of optometry. An
21 optometrist may not be certified by the board to administer therapeutic
22 pharmaceutical agents unless the optometrist is certified to administer diagnostic
23 pharmaceutical agents. The board shall not approve a course of instruction in

24 general or ocular pharmacology unless it is taught by an institution utilizing both
25 the didactic and clinical instruction in pharmacology and which is accredited by
26 a regional or professional accrediting organization which is recognized by the
27 United States Department of Education or its successors and the transcript for
28 the course of instruction is certified to the board by the institution as being
29 comparable in content to those courses in general and ocular pharmacology
30 required by other licensing boards whose licenses or registrants are permitted the
31 administration of pharmaceutical agents in the course of their professional
32 practice for either diagnostic or therapeutic purposes or both.

33 3. In issuing a certificate of registration or a renewal of a certificate of
34 registration, the state board of optometry shall:

35 (1) State upon the certificate of an optometrist certified by the board to
36 administer diagnostic pharmaceutical agents in the practice of optometry that the
37 optometrist is so certified; and

38 (2) State upon the certificate of an optometrist certified by the board to
39 administer therapeutic pharmaceutical agents in the practice of optometry that
40 the optometrist is so certified.

41 4. Any provision of section 336.010 to the contrary notwithstanding, a
42 registered optometrist who is examined and so certified by the state board of
43 optometry in the administration of diagnostic pharmaceutical agents or
44 therapeutic pharmaceutical agents may administer those agents for which he is
45 certified in the practice of optometry. An optometrist's prescriptions for
46 therapeutic pharmaceutical agents should be dispensed by a pharmacist licensed
47 under chapter 338, RSMo. When therapeutic pharmaceutical agents are
48 dispensed by an optometrist the provisions of section 338.059, RSMo, shall apply.

49 5. An optometrist certified in the administration of therapeutic
50 pharmaceutical agents may:

51 (1) Administer and prescribe pharmaceutical agents, excluding injectable
52 agents, for the diagnosis and treatment of conditions or diseases of the eye or
53 adnexa; and

54 (2) Perform diagnostic procedures and order laboratory and imaging tests
55 for the diagnosis of conditions or diseases of the eye or adnexa.

56 6. Each optometrist certified in the administration of therapeutic
57 pharmaceutical agents shall, within one year of August 28, 1995, complete a
58 course of instruction approved by the board that includes at least twenty-four
59 hours of training in the treatment of glaucoma. The board shall not approve a

60 course of instruction in the treatment of glaucoma unless it is taught by an
61 institution that is accredited by a regional or professional accrediting
62 organization that is recognized by the United States Department of Education or
63 its successor and the content for the course of instruction is certified to the board
64 by the institution as being comparable in the content to those courses in the
65 treatment of glaucoma required by other licensing boards whose licensees or
66 registrants are permitted to treat glaucoma in the course of their professional
67 practice; except that, any optometrist initially licensed in Missouri after
68 December 31, 1990, who had previously passed the examination of the National
69 Board of Examiners in Optometry in the year 1990, or anytime after such year,
70 shall be exempt from the requirement of completing the course of instruction in
71 the treatment of glaucoma required by this subsection. Until December 31, 1999,
72 as a condition for the annual renewal of the certificate of registration, each
73 optometrist certified in the administration of therapeutic pharmaceutical agents
74 shall, as a condition for the annual renewal of certification through December 31,
75 1999, complete a continuing course of instruction of at least six hours in the
76 treatment of glaucoma as approved by the board; provided that, such six hours
77 may be credited against the initial course of at least twenty-four hours required
78 by this section and against the educational optometric program of at least eight
79 hours required by section 336.080.

80 7. An optometrist certified by the board in the administration of
81 therapeutic pharmaceutical agents may remove superficial foreign bodies from the
82 eye and adnexa. An optometrist may not perform surgery, including the use of
83 lasers for treatment of any disease or condition or for the correction of refractive
84 error. An optometrist certified to use pharmaceutical agents as provided in this
85 section shall be held to the same standard of care in the use of such agents in the
86 optometrist's diagnosis and treatment as are physicians, licensed by the Missouri
87 state board of registration for the healing arts, who exercise that degree of skill
88 and proficiency commonly exercised by ordinary, skillful, careful and prudent
89 physicians and surgeons engaged in the practice of medicine.

90 8. Any optometrist authorized by the board to administer diagnostic
91 pharmaceutical agents shall refer a patient to a physician licensed under chapter
92 334, RSMo, if an examination of the eyes indicates a condition, including reduced
93 visual acuity, which requires medical treatment, further medical diagnosis, or
94 further refraction. This referral is not required on known or previously diagnosed
95 conditions. The record of the referral in the optometrist's notes shall have the

96 standing of any business record. Any optometrist violating this section shall be
97 subject to the provisions of section 336.110.] **Notwithstanding the provisions**
98 **of subsection 1 of section 336.010, any optometrist who is not certified**
99 **to use either diagnostic or therapeutic pharmaceutical agents shall**
100 **continue to be prohibited from administering, dispensing, or**
101 **prescribing the respective pharmaceutical agents unless the**
102 **optometrist has completed an approved course of study and has been**
103 **certified by the board. Such status shall be noted on the license at each**
104 **renewal.**

105 **2. Any optometrist authorized by the board to administer only**
106 **diagnostic pharmaceutical agents shall refer a patient to a physician**
107 **licensed under chapter 334, RSMo, if an examination of the eyes**
108 **indicates a condition, including reduced visual acuity, which requires**
109 **medical treatment, further medical diagnosis, or further**
110 **refraction. This referral is not required on known or previously**
111 **diagnosed conditions. The record of the referral in the optometrist's**
112 **notes shall have the standing of any business record. Any optometrist**
113 **violating this section shall be subject to the provisions of section**
114 **336.110.**

115 **3. An optometrist's prescriptions for therapeutic pharmaceutical**
116 **agents shall be dispensed by a pharmacist licensed under chapter 338,**
117 **RSMo. When therapeutic pharmaceutical agents are dispensed by an**
118 **optometrist, the provisions of section 338.059, RSMo, shall apply.**

119 **4. An optometrist certified to use pharmaceutical agents shall be**
120 **held to the standard of care in the use of pharmaceutical agents in the**
121 **optometrist's diagnosis and treatment as are physicians licensed by the**
122 **Missouri State Board of Registration for the Healing Arts, who exercise**
123 **that degree of skill and learning ordinarily used under the same or**
124 **similar circumstances by physicians and surgeons engaged in the**
125 **practice of medicine.**

126 **5. The board may adopt reasonable rules and regulations**
127 **providing for the examination and certification of optometrists who**
128 **apply to the board for authority to administer and prescribe**
129 **pharmaceutical agents in the practice of optometry.**

336.225. [Notwithstanding any other provision of law, any written or
2 broadcast advertising for eye exam services whether regional or national by any
3 optical firm shall not be required to list the name of the optometrist in the

4 advertisement provided those optometrists practicing under a trade name at a
5 specific location shall be identified to any person by having the optometrist's
6 name prominently displayed at such specific location. All eye exam services
7 provided by any optical firm must be provided by a person in accordance with the
8 provisions contained in section 336.030.] **Any optometrist or any person,
9 firm, or corporation employing or associated with an optometrist may
10 advertise the availability of optometric service. The optometrist shall
11 be responsible for ensuring that his or her name is prominently
12 displayed at all of his or her practice locations. All eye examination
13 services shall be provided by a person in accordance with the
14 provisions of section 336.030.**

337.600. As used in sections 337.600 to 337.689, the following terms
2 mean:

3 (1) "Advanced macro social worker", the applications of social
4 work theory, knowledge, methods, principles, values, and ethics; and
5 the professional use of self to community and organizational systems,
6 systemic and macrocosm issues, and other indirect nonclinical services;
7 specialized knowledge and advanced practice skills in case
8 management, information and referral, nonclinical assessments,
9 counseling, outcome evaluation, mediation, nonclinical supervision,
10 nonclinical consultation, expert testimony, education, outcome
11 evaluation, research, advocacy, social planning and policy development,
12 community organization, and the development, implementation and
13 administration of policies, programs, and activities. A licensed
14 advanced macro social worker may not treat mental or emotional
15 disorders or provide psychotherapy without the direct supervision of
16 a licensed clinical social worker; or diagnose a mental disorder;

17 (2) "Clinical social work", the application of **social work theory,**
18 **knowledge, values,** methods, principles, and techniques of case work, group
19 work, client-centered advocacy, [community organization,] administration,
20 [planning, evaluation,] consultation, research, psychotherapy and counseling
21 methods and techniques to persons, families and groups in assessment, diagnosis,
22 treatment, prevention and amelioration of mental and emotional conditions;

23 (3) "Committee", the state committee for social workers
24 established in section 337.622;

25 [(2)] (4) "Department", the Missouri department of economic

26 development;

27 [(3)] (5) "Director", the director of the division of professional registration
28 [in the department of economic development];

29 [(4)] (6) "Division", the division of professional registration;

30 [(5)] (7) "Independent practice", any practice of social workers outside of
31 an organized setting such as a social, medical, or governmental agency in which
32 a social worker assumes responsibility and accountability for services required;

33 (8) "Licensed advanced macro social worker", any person who
34 offers to render services to individuals, groups, families, couples,
35 organizations, institutions, communities, government agencies,
36 corporations, or the general public for a fee, monetary or otherwise,
37 implying that the person is trained, experienced, and licensed as an
38 advanced macro social worker, and who holds a current valid license
39 to practice as an advanced macro social worker;

40 (9) "Licensed baccalaureate social worker", any person who offers
41 to render services to individuals, groups, organizations, institutions,
42 corporations, government agencies, or the general public for a fee,
43 monetary or otherwise, implying that the person is trained,
44 experienced, and licensed as a baccalaureate social worker, and who
45 holds a current valid license to practice as a baccalaureate social
46 worker;

47 [(6)] (10) "Licensed clinical social worker", any person who offers to
48 render services to individuals, groups, organizations, institutions, corporations,
49 government agencies, or the general public for a fee, monetary or otherwise,
50 implying that the person is trained, experienced, and licensed as a clinical social
51 worker, and who holds a current, valid license to practice as a clinical social
52 worker;

53 (11) "Licensed master social worker", any person who offers to
54 render services to individuals, groups, families, couples, organizations,
55 institutions, communities, government agencies, corporations, or the
56 general public for a fee, monetary or otherwise, implying that the
57 person is trained, experienced, and licensed as a master social worker,
58 and who holds a current valid license to practice as a master social
59 worker. A licensed master social worker may not treat mental or
60 emotional disorders, provide psychotherapy without the direct
61 supervision of a licensed clinical social worker, or diagnose a mental

62 **disorder;**

63 **(12) "Master social work", the application of social work theory,**
64 **knowledge, methods, and ethics and the professional use of self to**
65 **restore or enhance social, psychosocial, or bio-psychosocial functioning**
66 **of individuals, couples, families, groups, organizations, communities,**
67 **institutions, government agencies, or corporations. The practice**
68 **includes the applications of specialized knowledge and advanced**
69 **practice skills in the areas of assessment, treatment planning,**
70 **implementation and evaluation, case management, mediation,**
71 **information and referral, counseling, client education, supervision,**
72 **consultation, education, research, advocacy, community organization**
73 **and development, planning, evaluation, implementation and**
74 **administration of policies, programs, and activities. Under supervision**
75 **as provided in this section, the practice of master social work may**
76 **include the practices reserved to clinical social workers or advanced**
77 **macro social workers;**

78 **(13) "Practice of advanced macro social work", rendering,**
79 **offering to render, or supervising those who render to individuals,**
80 **couples, families, groups, organizations, institutions, corporations,**
81 **government agencies, communities, or the general public any service**
82 **involving the application of methods, principles, and techniques of**
83 **advanced practice macro social work;**

84 **(14) "Practice of baccalaureate social work", rendering, offering**
85 **to render, or supervising those who render to individuals, families,**
86 **groups, organizations, institutions, corporations, or the general public**
87 **any service involving the application of methods, principles, and**
88 **techniques of baccalaureate social work;**

89 **[(7)] (15) "Practice of clinical social work", rendering, offering to render,**
90 **or supervising those who render to individuals, couples, groups, organizations,**
91 **institutions, corporations, or the general public any service involving the**
92 **application of methods, principles, and techniques of clinical social work;**

93 **(16) "Practice of master social work", rendering, offering to**
94 **render, or supervising those who render to individuals, couples,**
95 **families, groups, organizations, institutions, corporations, government**
96 **agencies, communities, or the general public any service involving the**
97 **application of methods, principles, and techniques of master social**
98 **work;**

99 **[(8)] (17) "Provisional licensed clinical social worker", any person who is**
100 **a graduate of an accredited school of social work and meets all requirements of**
101 **a licensed clinical social worker, other than the supervised clinical social work**
102 **experience prescribed by subdivision (2) of subsection 1 of section 337.615, and**
103 **who is supervised by a person who is qualified to practice clinical social work, as**
104 **defined by rule;**

105 **(18) "Qualified advanced macro supervisor", any licensed social**
106 **worker who meets the qualifications of a qualified clinical supervisor**
107 **or a licensed advanced macro social worker who has:**

108 **(a) Practiced in the field for which he or she is supervising the**
109 **applicant for a minimum uninterrupted period of five years;**

110 **(b) Has successfully completed a minimum of sixteen hours of**
111 **supervisory training from the Association of Social Work boards, the**
112 **National Association of Social Workers, an accredited university, or a**
113 **program approved by the state committee for social workers. All**
114 **organizations providing the supervisory training shall adhere to the**
115 **basic content and quality standards outlined by the state committee on**
116 **social work; and**

117 **(c) Met all the requirements of sections 337.600 to 337.689, and**
118 **as defined by rule by the state committee for social workers;**

119 **(19) "Qualified baccalaureate supervisor", any licensed social**
120 **worker who meets the qualifications of a qualified clinical supervisor,**
121 **qualified master supervisor, qualified advanced macro supervisor, or**
122 **a licensed baccalaureate social worker who has:**

123 **(a) Practiced in the field for which he or she is supervising the**
124 **applicant for a minimum uninterrupted period of five years;**

125 **(b) Has successfully completed a minimum of sixteen hours of**
126 **supervisory training from the Association of Social Work boards, the**
127 **National Association of Social Workers, an accredited university, or a**
128 **program approved by the state committee for social workers. All**
129 **organizations providing the supervisory training shall adhere to the**
130 **basic content and quality standards outlined by the state committee on**
131 **social workers; and**

132 **(c) Met all the requirements of sections 337.600 to 337.689, and**
133 **as defined by rule by the state committee for social workers;**

134 **(20) "Qualified clinical supervisor", any licensed clinical social**
135 **worker who has:**

136 (a) Practiced in the field for which he or she is supervising the
137 applicant uninterrupted since August 28, 2004, or a minimum of five
138 years;

139 (b) Has successfully completed a minimum of sixteen hours of
140 supervisory training from the Association of Social Work boards, the
141 National Association of Social Workers, an accredited university, or a
142 program approved by the state committee for social workers. All
143 organizations providing the supervisory training shall adhere to the
144 basic content and quality standards outlined by the state committee on
145 social work; and

146 (c) Met all the requirements of sections 337.600 to 337.689, and
147 as defined by rule by the state committee for social workers;

148 [(9)] (21) "Social worker", any individual that has:

149 (a) Received a baccalaureate or master's degree in social work from an
150 accredited social work program approved by the council on social work education;

151 (b) Received a doctorate or Ph.D. in social work; or

152 (c) A current [baccalaureate or clinical] social worker license as set forth
153 in sections 337.600 to 337.689.

337.603. No person shall use the title of "licensed clinical social worker",
2 "clinical social worker" or "provisional licensed clinical social worker" [and], or
3 engage in the practice of clinical social work in this state, unless the person is
4 licensed as required by the provisions of sections 337.600 to [337.639]
5 **337.689**. Only individuals who are licensed clinical social workers shall practice
6 clinical social work. Sections 337.600 to [337.639] **337.689** shall not apply to:

7 (1) Any person registered, certificated, or licensed by this state, another
8 state, or any recognized national certification agent acceptable to the committee
9 to practice any other occupation or profession while rendering services similar in
10 nature to clinical social work in the performance of the occupation or profession
11 which the person is registered, certificated, or licensed; and

12 (2) The practice of any social worker who is employed by any agency or
13 department of the state of Missouri while discharging the person's duties in that
14 capacity.

337.604. 1. No person shall hold himself or herself out to be a "social
2 worker" unless such person has:

3 (1) Received a baccalaureate or master's degree in social work from an
4 accredited social work program approved by the council on social work education;

5 (2) Received a doctorate or Ph.D. in social work; or

6 (3) A current [baccalaureate or clinical] social worker license as set forth
7 in sections 337.600 to 337.689.

8 2. No government entities, public or private agencies or organizations in
9 the state shall use the title "social worker" or any form of the title for volunteer
10 or employment positions or within contracts for services, documents, manuals, or
11 reference material effective January 1, 2004, unless the volunteers or employees
12 in those positions meet the criteria set forth in subdivision [(8)] (17) of section
13 337.600 or subsection 1 of this section.

337.612. 1. Applications for licensure as a clinical social worker,
2 **baccalaureate social worker, advanced macro social worker or master**
3 **social worker** shall be in writing, submitted to the committee on forms
4 prescribed by the committee and furnished to the applicant. The application shall
5 contain the applicant's statements showing the applicant's education, experience,
6 and such other information as the committee may require. Each application shall
7 contain a statement that it is made under oath or affirmation and that the
8 information contained therein is true and correct to the best knowledge and belief
9 of the applicant, subject to the penalties provided for the making of a false
10 affidavit or declaration. Each application shall be accompanied by the fees
11 required by the committee.

12 2. The committee shall mail a renewal notice to the last known address
13 of each licensee prior to the licensure renewal date. Failure to provide the
14 committee with the information required for licensure, or to pay the licensure fee
15 after such notice shall effect a revocation of the license after a period of sixty days
16 from the licensure renewal date. The license shall be restored if, within two
17 years of the licensure date, the applicant provides written application and the
18 payment of the licensure fee and a delinquency fee.

19 3. A new certificate to replace any certificate lost, destroyed or mutilated
20 may be issued subject to the rules of the committee, upon payment of a fee.

21 4. The committee shall set the amount of the fees which sections 337.600
22 to [337.639] **337.689** authorize and require by rules and regulations promulgated
23 pursuant to section 536.021, RSMo. The fees shall be set at a level to produce
24 revenue which shall not substantially exceed the cost and expense of
25 administering the provisions of sections 337.600 to [337.639] **337.689**. All fees
26 provided for in sections 337.600 to [337.639] **337.689** shall be collected by the
27 director who shall deposit the same with the state treasurer in a fund to be

28 known as the "Clinical Social Workers Fund". After August 28, 2007, the
29 "Clinical Social Workers Fund" shall be called the "Licensed Social
30 Workers Fund" and after such date all references in state law to the
31 "Clinical Social Workers Fund" shall be considered references to the
32 "Licensed Social Workers Fund".

33 5. The provisions of section 33.080, RSMo, to the contrary
34 notwithstanding, money in this fund shall not be transferred and placed to the
35 credit of general revenue until the amount in the fund at the end of the biennium
36 exceeds two times the amount of the appropriations from the clinical social
37 workers fund for the preceding fiscal year or, if the committee requires by rule
38 renewal less frequently than yearly, then three times the appropriation from the
39 committee's fund for the preceding fiscal year. The amount, if any, in the fund
40 which shall lapse is that amount in the fund which exceeds the appropriate
41 multiple of the appropriations from the clinical social workers fund for the
42 preceding fiscal year.

337.615. 1. Each applicant for licensure as a clinical social worker shall
2 furnish evidence to the committee that:

3 (1) The applicant has a master's degree from a college or university
4 program of social work accredited by the council of social work education or a
5 doctorate degree from a school of social work acceptable to the committee;

6 (2) The applicant has completed three thousand hours of supervised
7 clinical experience with a [licensed clinical social worker acceptable to the
8 committee, as defined by rule,] "**qualified clinical supervisor**", as defined
9 in section 337.600, in no less than twenty-four months and no more than
10 forty-eight consecutive calendar months;

11 (3) The applicant has achieved a passing score, as defined by the
12 committee, on an examination approved by the committee. The eligibility
13 requirements for such examination shall be promulgated by rule of the committee;

14 (4) The applicant is at least eighteen years of age, is of good moral
15 character, is a United States citizen or has status as a legal resident alien, and
16 has not been convicted of a felony during the ten years immediately prior to
17 application for licensure.

18 2. Any person holding a current license, certificate of registration, or
19 permit from another state or territory of the United States or the District of
20 Columbia to practice clinical social work who has had no disciplinary action taken
21 against the license, certificate of registration, or permit for the preceding five

22 years may be granted a license to practice clinical social work in this state if the
23 person meets one of the following criteria:

24 (1) Has received a masters or doctoral degree from a college or university
25 program of social work accredited by the council of social work education and has
26 been licensed to practice clinical social work for the preceding five years; or

27 (2) Is currently licensed or certified as a clinical social worker in another
28 state, territory of the United States, or the District of Columbia having
29 substantially the same requirements as this state for clinical social workers.

30 3. The committee shall issue a license to each person who files an
31 application and fee as required by the provisions of sections 337.600 to [337.639]
32 **337.689** and who furnishes evidence satisfactory to the committee that the
33 applicant has complied with the provisions of subdivisions (1) to (4) of subsection
34 1 of this section or with the provisions of subsection 2 of this section. The
35 committee shall issue a provisional clinical social worker license to any applicant
36 who meets all requirements of subdivisions (1), (3) and (4) of subsection 1 of this
37 section, but who has not completed the twenty-four months of supervised clinical
38 experience required by subdivision (2) of subsection 1 of this section, and such
39 applicant may reapply for licensure as a clinical social worker upon completion
40 of the twenty-four months of supervised clinical experience.

337.618. Each license issued pursuant to the provisions of sections
2 337.600 to [337.639] **337.689** shall expire on a renewal date established by the
3 director. The term of licensure shall be twenty-four months. The committee shall
4 require a minimum number of thirty clock hours of continuing education for
5 renewal of a license issued pursuant to sections 337.600 to [337.639]
6 **337.689**. The committee shall renew any license, other than a provisional license,
7 upon application for a renewal, completion of the required continuing education
8 hours and upon payment of the fee established by the committee pursuant to the
9 provisions of section 337.612. As provided by rule, the board may waive or extend
10 the time requirements for completion of continuing education for reasons related
11 to health, military service, foreign residency, or for other good cause. All requests
12 for waivers or extensions of time shall be made in writing and submitted to the
13 board before the renewal date.

337.622. 1. There is hereby established the "State Committee for Social
2 Workers", which shall guide, advise, and make recommendations to the division
3 and fulfill other responsibilities designated by sections 337.600 to [337.649 and
4 sections 337.650 to] 337.689. The committee shall approve any examination

5 required by sections 337.600 to [337.649 and sections 337.650 to] 337.689 and
6 shall assist the division in carrying out the provisions of sections 337.600 to
7 [337.649 and sections 337.650 to] 337.689.

8 2. The committee shall consist of [nine] **ten** members, including a public
9 member appointed by the governor with the advice and consent of the
10 senate. Each member of the committee shall be a citizen of the United States and
11 a resident of this state. The committee shall consist of six licensed clinical social
12 workers, [two] **one licensed master social worker, one** licensed
13 baccalaureate social workers, **one licensed advanced macro social worker,**
14 and one voting public member. At least two committee members shall be involved
15 in the private practice of clinical social work. [Any person who is a member of
16 any clinical social worker advisory committee appointed by the director of the
17 division of professional registration shall be eligible for appointment to the state
18 committee for social work on August 28, 1997.] The governor shall endeavor to
19 appoint members from different geographic regions of the state and with regard
20 to the pattern of distribution of social workers in the state. The term of office for
21 committee members shall be four years and no committee member shall serve
22 more than ten years. [Of the members first appointed, the governor shall appoint
23 three members, one of whom shall be the public member, whose terms shall be
24 four years; three members whose terms shall be three years; two members whose
25 terms shall be two years; and one member whose term shall be one year.] The
26 president of the National Association of Social Workers Missouri Chapter in office
27 at the time shall, at least ninety days prior to the expiration of a term of a
28 member of a clinical social worker, **master social worker, advanced macro**
29 **social worker,** or baccalaureate social worker committee member or as soon as
30 feasible after a vacancy on the committee otherwise occurs, submit to the director
31 of the division of professional registration a list of five [clinical] social workers
32 qualified [or five baccalaureate social workers] and willing to fill the vacancy in
33 question, with the request and recommendation that the governor appoint one of
34 the five persons in each category so listed, and with the list so submitted, the
35 president of the National Association of Social Workers Missouri Chapter shall
36 include in his or her letter of transmittal a description of the method by which
37 the names were chosen by that association.

38 3. A vacancy in the office of a member shall be filled by appointment by
39 the governor for the remainder of the unexpired term.

40 4. Notwithstanding any other provision of law to the contrary, any

41 appointed member of the committee shall receive as compensation an amount
42 established by the director of the division of professional registration not to
43 exceed seventy dollars per day for committee business plus each member of the
44 committee shall be reimbursed for necessary and actual expenses incurred in the
45 performance of the member's official duties. The director of the division of
46 professional registration shall establish by rule guidelines for payment. All staff
47 for the committee shall be provided by the division.

48 5. The committee shall hold an annual meeting at which it shall elect
49 from its membership a chairperson and a secretary. The committee may hold
50 such additional meetings as may be required in the performance of its duties,
51 provided that notice of every meeting must be given to each member at least
52 three days prior to the date of the meeting. A quorum of the board shall consist
53 of a majority of its members.

54 6. The governor may remove a committee member for misconduct,
55 incompetency or neglect of the member's official duties after giving the committee
56 member written notice of the charges against such member and an opportunity
57 to be heard thereon.

58 7. The public member shall be at the time of such member's appointment
59 a citizen of the United States; a resident of this state for a period of one year and
60 a registered voter; a person who is not and never was a member of any profession
61 licensed or regulated pursuant to sections 337.600 to [337.649 or sections 337.650
62 to] 337.689, or the spouse of such person; and a person who does not have and
63 never has had a material, financial interest in either the providing of the
64 professional services regulated by sections 337.600 to [337.649 or sections 337.650
65 to] 337.689, or an activity or organization directly related to any profession
66 licensed or regulated pursuant to sections 337.600 to [337.649] **337.689**. The
67 duties of the public member shall not include the determination of the technical
68 requirements to be met for licensure or whether any person meets such technical
69 requirements or of the technical competence or technical judgment of a licensee
70 or a candidate for licensure.

 337.627. 1. The committee shall promulgate rules and regulations
2 pertaining to:

3 (1) The form and content of license applications required by the provisions
4 of sections 337.600 to [337.639] **337.689** and the procedures for filing an
5 application for an initial or renewal license in this state;

6 (2) Fees required by the provisions of sections 337.600 to [337.639]

7 **337.689;**

8 (3) The characteristics of "supervised clinical experience" [as that term is
9 used in section 337.615], "**supervised master experience**", "**supervised**
10 **advanced macro experience**", and "**supervised baccalaureate**
11 **experience**";

12 (4) The standards and methods to be used in assessing competency as a
13 licensed clinical social worker, **licensed master social worker, licensed**
14 **advanced macro social worker, and licensed baccalaureate social**
15 **worker, including the requirement for continuing education hours;**

16 (5) Establishment and promulgation of procedures for investigating,
17 hearing and determining grievances and violations occurring pursuant to the
18 provisions of sections 337.600 to [337.639] **337.689;**

19 (6) Development of an appeal procedure for the review of decisions and
20 rules of administrative agencies existing pursuant to the constitution or laws of
21 this state;

22 (7) Establishment of a policy and procedure for reciprocity with other
23 states, including states which do not have clinical, **master, advanced macro,**
24 **or baccalaureate** social worker licensing laws or states whose licensing laws
25 are not substantially the same as those of this state; and

26 (8) Any other policies or procedures necessary to the fulfillment of the
27 requirements of sections 337.600 to [337.639] **337.689.**

28 2. [No rule or portion of a rule promulgated pursuant to the authority of
29 sections 337.600 to 337.639 shall become effective unless it has been promulgated
30 pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of**
31 **a rule, as that term is defined in section 536.010, RSMo, that is created**
32 **under the authority delegated in this section shall become effective**
33 **only if it complies with and is subject to all of the provisions of chapter**
34 **536, RSMo, and, if applicable, section 536.028, RSMo. This section and**
35 **chapter 536, RSMo, are nonseverable and if any of the powers vested**
36 **with the general assembly pursuant to chapter 536, RSMo, to review, to**
37 **delay the effective date, or to disapprove and annul a rule are**
38 **subsequently held unconstitutional, then the grant of rulemaking**
39 **authority and any rule proposed or adopted after August 28, 2007, shall**
40 **be invalid and void.**

337.630. 1. The committee may refuse to issue or renew any license
2 required by the provisions of sections 337.600 to [337.639] **337.689** for one or any

3 combination of causes stated in subsection 2 of this section. The committee shall
4 notify the applicant in writing of the reasons for the refusal and shall advise the
5 applicant of the applicant's right to file a complaint with the administrative
6 hearing commission as provided by chapter 621, RSMo.

7 2. The committee may cause a complaint to be filed with the
8 administrative hearing commission as provided by chapter 621, RSMo, against
9 any holder of any license required by sections 337.600 to [337.639] **337.689** or
10 any person who has failed to renew or has surrendered the person's license for
11 any one or any combination of the following causes:

12 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or
13 alcoholic beverage to an extent that such use impairs a person's ability to engage
14 in the occupation of [clinical] social work **licensed under this chapter**; except
15 that the fact that a person has undergone treatment for past substance or alcohol
16 abuse and/or has participated in a recovery program, shall not by itself be cause
17 for refusal to issue or renew a license;

18 (2) The person has been finally adjudicated and found guilty, or entered
19 a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws
20 of any state or of the United States, for any offense reasonably related to the
21 qualifications, functions or duties of a [clinical] social worker **licensed under**
22 **this chapter**; for any offense an essential element of which is fraud, dishonesty
23 or an act of violence; or for any offense involving moral turpitude, whether or not
24 sentence is imposed;

25 (3) Use of fraud, deception, misrepresentation or bribery in securing any
26 license issued pursuant to the provisions of sections 337.600 to [337.639] **337.689**
27 or in obtaining permission to take any examination given or required pursuant
28 to the provisions of sections 337.600 to [337.639] **337.689**;

29 (4) Obtaining or attempting to obtain any fee, charge, tuition or other
30 compensation by fraud, deception or misrepresentation;

31 (5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in
32 the performance of the functions or duties of a [clinical] social worker licensed
33 pursuant to this chapter;

34 (6) Violation of, or assisting or enabling any person to violate, any
35 provision of sections 337.600 to [337.639] **337.689**, or of any lawful rule or
36 regulation adopted pursuant to sections 337.600 to [337.639] **337.689**;

37 (7) Impersonation of any person holding a license or allowing any person
38 to use the person's license or diploma from any school;

39 (8) Revocation or suspension of a license or other right to practice
40 [clinical] social work licensed pursuant to this chapter granted by another state,
41 territory, federal agency or country upon grounds for which revocation or
42 suspension is authorized in this state;

43 (9) Final adjudication as incapacitated by a court of competent
44 jurisdiction;

45 (10) Assisting or enabling any person to practice or offer to practice
46 [clinical] social work licensed pursuant to this chapter who is not licensed and
47 currently eligible to practice pursuant to the provisions of sections 337.600 to
48 [337.639] **337.689**;

49 (11) Obtaining a license based upon a material mistake of fact;

50 (12) Failure to display a valid license if so required by sections 337.600
51 to [337.639] **337.689** or any rule promulgated hereunder;

52 (13) Violation of any professional trust or confidence;

53 (14) Use of any advertisement or solicitation which is false, misleading or
54 deceptive to the general public or persons to whom the advertisement or
55 solicitation is primarily directed;

56 (15) Being guilty of unethical conduct as defined in the ethical standards
57 for clinical social workers adopted by the committee by rule and filed with the
58 secretary of state.

59 3. Any person, organization, association or corporation who reports or
60 provides information to the committee pursuant to the provisions of sections
61 337.600 to [337.639] **337.689** and who does so in good faith shall not be subject
62 to an action for civil damages as a result thereof.

63 4. After the filing of such complaint, the proceedings shall be conducted
64 in accordance with the provisions of chapter 621, RSMo. Upon a finding by the
65 administrative hearing commission that the grounds, provided in subsection 2 of
66 this section, for disciplinary action are met, the committee may censure or place
67 the person named in the complaint on probation on such terms and conditions as
68 the committee deems appropriate for a period not to exceed five years, or may
69 suspend, for a period not to exceed three years, or revoke the license.

337.636. Persons licensed under the provisions of sections 337.600 to
2 [337.639] **337.689** may not disclose any information acquired from persons
3 consulting them in their professional capacity, or be compelled to disclose such
4 information except:

5 (1) With the written consent of the client, or in the case of the client's

6 death or disability, the client's personal representative or other person authorized
7 to sue, or the beneficiary of an insurance policy on the client's life, health or
8 physical condition;

9 (2) When such information pertains to a criminal act;

10 (3) When the person is a child under the age of eighteen years and the
11 information acquired by the licensee indicated that the child was the victim of a
12 crime;

13 (4) When the person waives the privilege by bringing charges against the
14 licensee;

15 (5) When the licensee is called upon to testify in any court or
16 administrative hearings concerning matters of adoption, adult abuse, child abuse,
17 child neglect, or other matters pertaining to the welfare of clients of the licensee;
18 or

19 (6) When the licensee is collaborating or consulting with professional
20 colleagues or an administrative superior on behalf of the client.

**337.643. 1. No person shall use the title of licensed master social
2 worker and engage in the practice of master social work in this state
3 unless the person is licensed as required by the provisions of this
4 section and section 337.644.**

5 **2. A licensed master social worker shall be deemed qualified to
6 practice the applications of social work theory, knowledge, methods
7 and ethics and the professional use of self to restore or enhance social,
8 psychosocial, or bio-psychosocial functioning of individuals, couples,
9 families, groups, organizations, and communities. Master social work
10 practice includes the applications of specialized knowledge and
11 advanced practice skills in the management, information and referral,
12 counseling, supervision, consultation, education, research, advocacy,
13 community organization, and the development, implementation, and
14 administration of policies, programs, and activities. Under supervision
15 as provided in sections 337.600 to 337.689, the practice of master social
16 work may include the practices reserved to clinical social workers or
17 advanced macro social workers.**

**337.644. 1. Each applicant for licensure as a master social
2 worker shall furnish evidence to the committee that:**

3 **(1) The applicant has a master's or doctorate degree in social
4 work from an accredited social work degree program approved by the**

5 council of social work education;

6 (2) The applicant has achieved a passing score, as defined by the
7 committee, on an examination approved by the committee. The
8 eligibility requirements for such examination shall be determined by
9 the state committee for social workers;

10 (3) The applicant is at least eighteen years of age, is of good
11 moral character, is a United States citizen or has status as a legal
12 resident alien, and has not been convicted of a felony during the ten
13 years immediately prior to application for licensure;

14 (4) The applicant has submitted a written application on forms
15 prescribed by the state board;

16 (5) The applicant has submitted the required licensing fee, as
17 determined by the committee.

18 2. Any applicant who answers in the affirmative to any question
19 on the application that relates to possible grounds for denial of
20 licensure under section 337.630 shall submit a sworn affidavit setting
21 forth in detail the facts which explain such answer and copies of
22 appropriate documents related to such answer.

23 3. Any person holding a valid unrevoked and unexpired license,
24 certificate, or registration from another state or territory of the United
25 States having substantially the same requirements as this state for
26 master social workers may be granted a license to engage in the
27 person's occupation in this state upon application to the committee
28 accompanied by the appropriate fee as established by the committee
29 under section 337.612.

30 4. The committee shall issue a license to each person who files
31 an application and fee as required by the provisions of sections 337.600
32 to 337.689 and who furnishes evidence satisfactory to the committee
33 that the applicant has complied with the provisions of subsection 1 of
34 this section or with the provisions of subsection 3 of this section. The
35 license shall refer to the individual as a licensed master social worker
36 and shall recognize that individual's right to practice licensed master
37 social work as defined in section 337.600.

337.645. 1. Each applicant for licensure as an advanced macro
2 social worker shall furnish evidence to the committee that:

3 (1) The applicant has a master's degree from a college or
4 university program of social work accredited by the council of social

5 work education or a doctorate degree from a school of social work
6 acceptable to the committee;

7 (2) The applicant has completed three thousand hours of
8 supervised advanced macro experience with a "qualified advanced
9 macro supervisor" as defined in section 337.600 in no less than twenty-
10 four months and no more than forty-eight consecutive calendar months;

11 (3) The applicant has achieved a passing score, as defined by the
12 committee, on an examination approved by the committee. The
13 eligibility requirements for such examination shall be promulgated by
14 rule of the committee;

15 (4) The applicant is at least eighteen years of age, is of good
16 moral character, is a United States citizen or has status as a legal
17 resident alien, and has not been convicted of a felony during the ten
18 years immediately prior to application for licensure.

19 2. Any person holding a current license, certificate of
20 registration, or permit from another state or territory of the United
21 States or the District of Columbia to practice advanced macro social
22 work who has had no disciplinary action taken against the license,
23 certificate of registration, or permit for the preceding five years may
24 be granted a license to practice advanced macro social work in this
25 state if the person meets one of the following criteria:

26 (1) Has received a master's or doctoral degree from a college or
27 university program of social work accredited by the council of social
28 work education and has been licensed to practice advanced macro
29 social work for the preceding five years; or

30 (2) Is currently licensed or certified as an advanced macro social
31 worker in another state, territory of the United States, or the District
32 of Columbia having substantially the same requirements as this state
33 for advanced macro social workers.

34 3. The committee shall issue a license to each person who files
35 an application and fee as required by the provisions of sections 337.600
36 to 337.689 and who furnishes evidence satisfactory to the committee
37 that the applicant has complied with the provisions of subdivisions (1)
38 to (4) of subsection 1 of this section or with the provisions of subsection
39 2 of this section.

337.646. 1. No person shall use the title of licensed advanced
2 macro social worker and engage in the practice of advanced macro

3 **social work in this state unless the person is licensed as required by**
4 **the provisions of section 337.645.**

337.653. 1. No person shall use the title of "licensed baccalaureate social
2 worker" [or "provisional licensed baccalaureate social worker"] and engage in the
3 practice of baccalaureate social work in this state unless the person is licensed
4 as required by the provisions of sections [337.650] **337.600** to 337.689.

5 2. A licensed baccalaureate social worker shall be deemed qualified to
6 practice the following:

7 (1) Engage in assessment and evaluation from a generalist perspective,
8 excluding the diagnosis and treatment of mental illness and emotional disorders;

9 (2) Conduct basic data gathering of records and social problems of
10 individuals, groups, families and communities, assess such data, and formulate
11 and implement a plan to achieve specific goals;

12 (3) Serve as an advocate for clients, families, groups or communities for
13 the purpose of achieving specific goals;

14 (4) Counsel, excluding psychotherapy; however, counseling shall be
15 defined as providing support, direction, and guidance to clients by assisting them
16 in successfully solving complex social problems;

17 (5) Perform crisis intervention, screening and resolution, excluding the
18 use of psychotherapeutic techniques;

19 (6) Be a community supporter, organizer, planner or administrator for a
20 social service program;

21 (7) Conduct crisis planning ranging from disaster relief planning for
22 communities to helping individuals prepare for the death or disability of family
23 members;

24 (8) Inform and refer clients to other professional services;

25 (9) Perform case management and outreach, including but not limited to
26 planning, managing, directing or coordinating social services; and

27 (10) Engage in the training and education of social work students from an
28 accredited institution and supervise other licensed baccalaureate social workers.

29 3. [A] **If the licensed baccalaureate social worker has completed**
30 **three thousand hours of supervised baccalaureate experience with a**
31 **qualified baccalaureate supervisor in no less than twenty-four months**
32 **and no more than forty-eight consecutive calendar months, the licensed**
33 baccalaureate social worker may engage in the independent practice of
34 baccalaureate social work as defined in [subdivision (6) of] section [337.650]

35 **337.600** and subdivisions (1) to (10) of subsection 2 of this section. **Upon**
36 **demonstrating the successful completion of supervised experience, the**
37 **state committee for social workers shall provide the licensee with a**
38 **certificate clearly stating the individual's qualification to practice**
39 **independently with the words "independent practice" or "IP" next to his**
40 **or her licensure.**

337.665. 1. Each applicant for licensure as a baccalaureate social worker
2 shall furnish evidence to the committee that:

3 (1) The applicant has a baccalaureate degree in social work from an
4 accredited social work degree program approved by the council of social work
5 education;

6 (2) The applicant has achieved a passing score, as defined by the
7 committee, on an examination approved by the committee. The eligibility
8 requirements for such examination shall be determined by the state committee
9 for social work;

10 (3) [The applicant has completed three thousand hours of supervised
11 baccalaureate experience with a licensed clinical social worker or licensed
12 baccalaureate social worker in no less than twenty-four and no more than
13 forty-eight consecutive calendar months;

14 (4)] The applicant is at least eighteen years of age, is of good moral
15 character, is a United States citizen or has status as a legal resident alien, and
16 has not been convicted of a felony during the ten years immediately prior to
17 application for licensure;

18 [(5)] (4) The applicant has submitted a written application on forms
19 prescribed by the state board;

20 [(6)] (5) The applicant has submitted the required licensing fee, as
21 determined by the [division] **committee**.

22 2. Any applicant who answers in the affirmative to any question on the
23 application that relates to possible grounds for denial of licensure pursuant to
24 section [337.680] **337.630** shall submit a sworn affidavit setting forth in detail
25 the facts which explain such answer and copies of appropriate documents related
26 to such answer.

27 3. Any person holding a valid unrevoked and unexpired license, certificate
28 or registration from another state or territory of the United States having
29 substantially the same requirements as this state for baccalaureate social
30 workers may be granted a license to engage in the person's occupation in this

31 state upon application to the committee accompanied by the appropriate fee as
32 established by the committee pursuant to section [337.662] **337.612**.

33 4. The committee shall issue a license to each person who files an
34 application and fee as required by the provisions of sections [337.650] **337.600**
35 to 337.689 and who furnishes evidence satisfactory to the committee that the
36 applicant has complied with the provisions of subsection 1 of this section or with
37 the provisions of subsection 2 of this section. [The committee shall issue a
38 one-time provisional baccalaureate social worker license to any applicant who
39 meets all requirements of subdivisions (1), (2), (4), (5) and (6) of subsection 1 of
40 this section, but who has not completed the supervised baccalaureate experience
41 required by subdivision (3) of subsection 1 of this section, and such applicant may
42 apply for licensure as a baccalaureate social worker upon completion of the
43 supervised baccalaureate experience.]

44 5. The committee shall issue a certificate to practice
45 independently under subsection 3 of section 337.653 to any licensed
46 baccalaureate social worker who has satisfactorily completed three
47 thousand hours of supervised experience with a qualified baccalaureate
48 supervisor in no less than twenty-four months and no more than forty-
49 eight consecutive calendar months.

337.689. Nothing in sections [337.650] **337.600** to 337.689 shall be
2 construed to prohibit any person licensed pursuant to the provisions of sections
3 [337.650] **337.600** to 337.689 from testifying in court hearings concerning matters
4 of adoption, adult abuse, child abuse, child neglect, or other matters pertaining
5 to the welfare of children or any dependent person, or from seeking collaboration
6 or consultation with professional colleagues or administrative supervisors on
7 behalf of the client.

337.700. As used in sections 337.700 to 337.739, the following terms
2 mean:

- 3 (1) "Committee", the state committee for family and marital therapists;
- 4 (2) "Department", the Missouri department of economic development;
- 5 (3) "Director", the director of the division of professional registration in
6 the department of economic development;
- 7 (4) "Division", the division of professional registration;
- 8 (5) "Fund", the marital and family therapists' fund created in section
9 337.712;
- 10 (6) "Licensed marital and family therapist", a person to whom a license

11 has been issued pursuant to the provisions of sections 337.700 to 337.739, whose
12 license is in force and not suspended or revoked;

13 (7) "Marital and family therapy", the use of scientific and applied
14 marriage and family theories, methods and procedures for the purpose of
15 describing, **diagnosing**, evaluating and modifying marital, family and individual
16 behavior within the context of marital and family systems, including the context
17 of marital formation and dissolution. Marriage and family therapy is based on
18 systems theories, marriage and family development, normal and dysfunctional
19 behavior, human sexuality and psychotherapeutic, marital and family therapy
20 theories and techniques and includes the use of marriage and family therapy
21 theories and techniques in the **diagnosis**, evaluation, assessment and treatment
22 of intrapersonal or interpersonal dysfunctions within the context of marriage and
23 family systems. Marriage and family therapy may also include clinical research
24 into more effective methods for the treatment and prevention of the above-named
25 conditions;

26 (8) "Practice of marital and family therapy", the rendering of professional
27 marital and family therapy services to individuals, family groups and marital
28 pairs, singly or in groups, whether such services are offered directly to the
29 general public or through organizations, either public or private, for a fee,
30 monetary or otherwise.

337.715. 1. Each applicant for licensure as a marital and family therapist
2 shall furnish evidence to the division that:

3 (1) The applicant has a master's degree or a doctoral degree in marital
4 and family therapy, or its equivalent, from an acceptable educational institution
5 accredited by a regional accrediting body or accredited by an accrediting body
6 which has been approved by the United States Department of Education;

7 (2) The applicant has twenty-four months of postgraduate supervised
8 clinical experience acceptable to the division, as the division determines by rule;

9 (3) **After August 28, 2008, the applicant shall have completed a**
10 **minimum of three semester hours of graduate level course work in**
11 **diagnostic systems either within the curriculum leading to a degree as**
12 **defined in subdivision (1) of this subsection or as post master's**
13 **graduate level course work. Each applicant shall demonstrate**
14 **supervision of diagnosis as a core component of the postgraduate**
15 **supervised clinical experience as defined in subdivision (2) of this**
16 **subsection;**

17 (4) Upon examination, the applicant is possessed of requisite knowledge
18 of the profession, including techniques and applications research and its
19 interpretation and professional affairs and ethics;

20 ~~[(4)]~~ (5) The applicant is at least eighteen years of age, is of good moral
21 character, is a United States citizen or has status as a legal resident alien, and
22 has not been convicted of a felony during the ten years immediately prior to
23 application for licensure.

24 2. A licensed marriage and family therapist who has had no violations and
25 no suspensions and no revocation of a license to practice marriage and family
26 therapy in any jurisdiction may receive a license in Missouri provided said
27 marriage and family therapist passes a written examination on Missouri laws and
28 regulations governing the practice of professional counseling as defined in section
29 337.700, and meets one of the following criteria:

30 (1) Is a member in good standing and holds a certification from the
31 Academy of Marriage and Family Therapists;

32 (2) Is currently licensed or certified as a licensed marriage and family
33 therapist in another state, territory of the United States, or the District of
34 Columbia; and

35 (a) Meets the educational standards set forth in subdivision (1) of
36 subsection 1 of this section;

37 (b) Has been licensed for the preceding five years; and

38 (c) Has had no disciplinary action taken against the license for the
39 preceding five years; or

40 (3) Is currently licensed or certified as a marriage and family therapist
41 in another state, territory of the United States, or the District of Columbia that
42 extends like privileges for reciprocal licensing or certification to persons licensed
43 by this state with similar qualifications.

44 3. The division shall issue a license to each person who files an
45 application and fee as required by the provisions of sections 337.700 to 337.739,
46 and who furnishes evidence satisfactory to the division that the applicant has
47 complied with the provisions of subdivisions (1) to (4) of subsection 1 of this
48 section or with the provisions of subsection 2 of this section.

 337.718. 1. Each license issued pursuant to the provisions of sections
2 337.700 to 337.739 shall expire on a renewal date established by the
3 director. The term of licensure shall be twenty-four months; however, the director
4 may establish a shorter term for the first licenses issued pursuant to sections

5 337.700 to 337.739. The division shall renew any license upon application for a
6 renewal and upon payment of the fee established by the division pursuant to the
7 provisions of section 337.712. **Effective August 28, 2008, as a prerequisite**
8 **for renewal, each licensee shall furnish to the committee satisfactory**
9 **evidence of the completion of the requisite number of hours of**
10 **continuing education as defined by rule, which shall be no more than**
11 **forty contact hours biennially. The continuing education requirements**
12 **may be waived by the committee upon presentation to the committee**
13 **of satisfactory evidence of illness or for other good cause.**

14 2. The division may issue temporary permits to practice under
15 extenuating circumstances as determined by the division and defined by rule.

339.100. 1. The commission may, upon its own motion, and shall upon
2 receipt of a written complaint filed by any person, investigate any real
3 estate-related activity of a licensee licensed under sections 339.010 to 339.180
4 and sections 339.710 to 339.860 or an individual or entity acting as or
5 representing themselves as a real estate licensee. In conducting such
6 investigation, if the questioned activity or written complaint involves an affiliated
7 licensee, the commission may forward a copy of the information received to the
8 affiliated licensee's designated broker. The commission shall have the power to
9 hold an investigatory hearing to determine whether there is a probability of a
10 violation of sections 339.010 to 339.180 and sections 339.710 to 339.860. The
11 commission shall have the power to issue a subpoena to compel the production of
12 records and papers bearing on the complaint. The commission shall have the
13 power to issue a subpoena and to compel any person in this state to come before
14 the commission to offer testimony or any material specified in the
15 subpoena. Subpoenas and subpoenas duces tecum issued pursuant to this section
16 shall be served in the same manner as subpoenas in a criminal case. The fees
17 and mileage of witnesses shall be the same as that allowed in the circuit court in
18 civil cases.

19 2. The commission may cause a complaint to be filed with the
20 administrative hearing commission as provided by the provisions of chapter 621,
21 RSMo, against any person or entity licensed under this chapter or any licensee
22 who has failed to renew or has surrendered his or her individual or entity license
23 for any one or any combination of the following acts:

24 (1) Failure to maintain and deposit in a special account, separate and
25 apart from his or her personal or other business accounts, all moneys belonging

26 to others entrusted to him or her while acting as a real estate broker or as the
27 temporary custodian of the funds of others, until the transaction involved is
28 consummated or terminated, unless all parties having an interest in the funds
29 have agreed otherwise in writing;

30 (2) Making substantial misrepresentations or false promises or
31 suppression, concealment or omission of material facts in the conduct of his or her
32 business or pursuing a flagrant and continued course of misrepresentation
33 through agents, salespersons, advertising or otherwise in any transaction;

34 (3) Failing within a reasonable time to account for or to remit any moneys,
35 valuable documents or other property, coming into his or her possession, which
36 belongs to others;

37 (4) Representing to any lender, guaranteeing agency, or any other
38 interested party, either verbally or through the preparation of false documents,
39 an amount in excess of the true and actual sale price of the real estate or terms
40 differing from those actually agreed upon;

41 (5) Failure to timely deliver a duplicate original of any and all
42 instruments to any party or parties executing the same where the instruments
43 have been prepared by the licensee or under his or her supervision or are within
44 his or her control, including, but not limited to, the instruments relating to the
45 employment of the licensee or to any matter pertaining to the consummation of
46 a lease, listing agreement or the purchase, sale, exchange or lease of property, or
47 any type of real estate transaction in which he or she may participate as a
48 licensee;

49 (6) Acting for more than one party in a transaction without the knowledge
50 of all parties for whom he or she acts, or accepting a commission or valuable
51 consideration for services from more than one party in a real estate transaction
52 without the knowledge of all parties to the transaction;

53 (7) Paying a commission or valuable consideration to any person for acts
54 or services performed in violation of sections 339.010 to 339.180 and sections
55 339.710 to 339.860;

56 (8) Guaranteeing or having authorized or permitted any licensee to
57 guarantee future profits which may result from the resale of real property;

58 (9) Having been finally adjudicated and been found guilty of the violation
59 of any state or federal statute which governs the sale or rental of real property
60 or the conduct of the real estate business as defined in subsection 1 of section
61 339.010;

62 (10) Obtaining a certificate or registration of authority, permit or license
63 for himself or herself or anyone else by false or fraudulent representation, fraud
64 or deceit;

65 (11) Representing a real estate broker other than the broker with whom
66 associated without the express written consent of the broker with whom
67 associated;

68 (12) Accepting a commission or valuable consideration for the performance
69 of any of the acts referred to in section 339.010 from any person except the broker
70 with whom associated at the time the commission or valuable consideration was
71 earned;

72 (13) Using prizes, money, gifts or other valuable consideration as
73 inducement to secure customers or clients to purchase, lease, sell or list property
74 when the awarding of such prizes, money, gifts or other valuable consideration
75 is conditioned upon the purchase, lease, sale or listing; or soliciting, selling or
76 offering for sale real property by offering free lots, or conducting lotteries or
77 contests, or offering prizes for the purpose of influencing a purchaser or
78 prospective purchaser of real property;

79 (14) Placing a sign on or advertising any property offering it for sale or
80 rent without the written consent of the owner or his or her duly authorized agent;

81 (15) Violation of, or attempting to violate, directly or indirectly, or
82 assisting or enabling any person to violate, any provision of sections 339.010 to
83 339.180 and sections 339.710 to 339.860, or of any lawful rule adopted pursuant
84 to sections 339.010 to 339.180 and sections 339.710 to 339.860;

85 (16) Committing any act which would otherwise be grounds for the
86 commission to refuse to issue a license under section 339.040;

87 (17) Failure to timely inform seller of all written offers unless otherwise
88 instructed in writing by the seller;

89 (18) Been finally adjudicated and found guilty, or entered a plea of guilty
90 or nolo contendere, in a criminal prosecution under the laws of this state or any
91 other state or of the United States, for any offense reasonably related to the
92 qualifications, functions or duties of any profession licensed or regulated under
93 this chapter, for any offense an essential element of which is fraud, dishonesty
94 or an act of violence, or for any offense involving moral turpitude, whether or not
95 sentence is imposed;

96 (19) Any other conduct which constitutes untrustworthy, improper or
97 fraudulent business dealings, demonstrates bad faith or incompetence,

98 misconduct, or gross negligence;

99 (20) Disciplinary action against the holder of a license or other right to
100 practice any profession regulated under sections 339.010 to 339.180 and sections
101 339.710 to 339.860 granted by another state, territory, federal agency, or country
102 upon grounds for which revocation, suspension, or probation is authorized in this
103 state;

104 (21) Been found by a court of competent jurisdiction of having used any
105 controlled substance, as defined in chapter 195, RSMo, to the extent that such use
106 impairs a person's ability to perform the work of any profession licensed or
107 regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860;

108 (22) Been finally adjudged insane or incompetent by a court of competent
109 jurisdiction;

110 (23) Assisting or enabling any person to practice or offer to practice any
111 profession licensed or regulated under sections 339.010 to 339.180 and sections
112 339.710 to 339.860 who is not registered and currently eligible to practice under
113 sections 339.010 to 339.180 and sections 339.710 to 339.860;

114 (24) Use of any advertisement or solicitation which is knowingly false,
115 misleading or deceptive to the general public or persons to whom the
116 advertisement or solicitation is primarily directed.

117 3. After the filing of such complaint, the proceedings will be conducted in
118 accordance with the provisions of law relating to the administrative hearing
119 commission. A finding of the administrative hearing commissioner that the
120 licensee has performed or attempted to perform one or more of the foregoing acts
121 shall be grounds for the suspension or revocation of his license by the
122 commission, or the placing of the licensee on probation on such terms and
123 conditions as the real estate commission shall deem appropriate, **or the**
124 **imposition of a civil penalty by the commission not to exceed two**
125 **thousand five hundred dollars for each offense. Each day of a**
126 **continued violation shall constitute a separate offense.**

127 4. The commission may prepare a digest of the decisions of the
128 administrative hearing commission which concern complaints against licensed
129 brokers or salespersons and cause such digests to be mailed to all licensees
130 periodically. Such digests may also contain reports as to new or changed rules
131 adopted by the commission and other information of significance to licensees.

132 5. Notwithstanding other provisions of this section, a broker or
133 salesperson's license shall be revoked, or in the case of an applicant, shall not be

134 issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo
135 contendere to, or been found guilty of any of the following offenses or offenses of
136 a similar nature established under the laws of this, any other state, the United
137 States, or any other country, notwithstanding whether sentence is imposed:

138 (1) Any dangerous felony as defined under section 556.061, RSMo, or
139 murder in the first degree;

140 (2) Any of the following sexual offenses: rape, statutory rape in the first
141 degree, statutory rape in the second degree, sexual assault, forcible sodomy,
142 statutory sodomy in the first degree, statutory sodomy in the second degree, child
143 molestation in the first degree, child molestation in the second degree, deviate
144 sexual assault, sexual misconduct involving a child, sexual misconduct in the first
145 degree, sexual abuse, enticement of a child, or attempting to entice a child;

146 (3) Any of the following offenses against the family and related offenses:
147 incest, abandonment of a child in the first degree, abandonment of a child in the
148 second degree, endangering the welfare of a child in the first degree, abuse of a
149 child, using a child in a sexual performance, promoting sexual performance by a
150 child, or trafficking in children; and

151 (4) Any of the following offenses involving child pornography and related
152 offenses: promoting obscenity in the first degree, promoting obscenity in the
153 second degree when the penalty is enhanced to a class D felony, promoting child
154 pornography in the first degree, promoting child pornography in the second
155 degree, possession of child pornography in the first degree, possession of child
156 pornography in the second degree, furnishing child pornography to a minor,
157 furnishing pornographic materials to minors, or coercing acceptance of obscene
158 material.

159 6. A person whose license was revoked under subsection 5 of this section
160 may appeal such revocation to the administrative hearing commission. Notice of
161 such appeal must be received by the administrative hearing commission within
162 ninety days of mailing, by certified mail, the notice of revocation. Failure of a
163 person whose license was revoked to notify the administrative hearing
164 commission of his or her intent to appeal waives all rights to appeal the
165 revocation. Upon notice of such person's intent to appeal, a hearing shall be held
166 before the administrative hearing [commissioner] **commission**.

**339.200. 1. It shall be unlawful for any person not holding the
2 required license from the commission to perform any act for which a
3 license is required by sections 339.010 to 339.180 and sections 339.710**

4 to 339.860. The commission may cause a complaint to be filed with the
5 administrative hearing commission, as provided in chapter 621, RSMo,
6 against any unlicensed person who:

7 (1) Engages in or offers to perform any act for which a license is
8 required by sections 339.010 to 339.180 and sections 339.710 to 339.860;
9 or

10 (2) Uses or employs titles defined and protected by this chapter,
11 or implies authorization to provide or offer professional services, or
12 otherwise uses or advertises any title, word, figure, sign, card,
13 advertisement, or other symbol or description tending to convey the
14 impression that the person holds any license required by sections
15 339.010 to 339.180 and sections 339.710 to 339.860.

16 2. When reviewing complaints against unlicensed persons, the
17 commission may initiate an investigation and take all measures
18 necessary to find the facts of any potential violation, including issuing
19 subpoenas to compel the attendance and testimony of witnesses and the
20 disclosure of evidence.

21 3. If the commission files a complaint with the administrative
22 hearing commission, the proceedings shall be conducted in accordance
23 with the provisions of chapter 621, RSMo. Upon a finding by the
24 administrative hearing commission that the grounds provided in
25 subsection 1 of this section for action are met, the commission may,
26 either singularly or in combination with other provisions of this
27 chapter, impose a civil penalty against the person named in the
28 complaint in an amount not to exceed the limit authorized by section
29 339.205.

339.205. 1. In actions against unlicensed persons or disciplinary
2 actions against licensed persons, the commission may issue an order
3 imposing a civil penalty. Such penalty shall not be imposed until the
4 findings of facts and conclusions of law by the administrative hearing
5 commission have been delivered to the commission in accordance with
6 section 621.110, RSMo. Further, no civil penalty shall be assessed until
7 a formal meeting and vote by the board has been taken to impose such
8 a penalty.

9 2. Any civil penalty imposed by the commission shall not exceed
10 two thousand five hundred dollars for each offense. Each day of a
11 continued violation constitutes a separate offense, with a maximum

12 **penalty of twenty-five thousand dollars. In determining the amount of**
13 **penalty to be imposed, the commission may consider any of the**
14 **following:**

15 **(1) Whether the amount imposed will be a substantial deterrent**
16 **to the violation;**

17 **(2) The circumstances leading to the violation;**

18 **(3) The severity of the violation and the risk of harm to the**
19 **public;**

20 **(4) The economic benefits gained by the violator as a result of**
21 **noncompliance; and**

22 **(5) The interest of the public.**

23 **3. Any final order imposing a civil penalty is subject to judicial**
24 **review upon the filing of a petition under section 536.100, RSMo, by any**
25 **person subject to the penalty.**

26 **4. Payment of a civil penalty shall be made within sixty days of**
27 **filing the order, or if the order is stayed pending an appeal, within ten**
28 **days after the court enters a final judgment in favor of the commission.**
29 **If the penalty is not timely paid, the commission shall notify the**
30 **attorney general. The attorney general may commence an action to**
31 **recover the amount of the penalty, including reasonable attorney fees**
32 **and costs and a surcharge of fifteen percent of the penalty plus ten**
33 **percent per annum on any amounts owed. In such action, the validity**
34 **and appropriateness of the final order imposing the civil penalty shall**
35 **not be subject to review.**

36 **5. An action to enforce an order under this section may be joined**
37 **with an action for an injunction.**

38 **6. Any offer of settlement to resolve a civil penalty under this**
39 **section shall be in writing, state that an action for imposition of a civil**
40 **penalty may be initiated by the attorney general representing the**
41 **commission under this section, and identify any dollar amount as an**
42 **offer of settlement, which shall be negotiated in good faith through**
43 **conference, conciliation, and persuasion.**

44 **7. Failure to pay a civil penalty by any person licensed under**
45 **this chapter shall be grounds for denying, disciplining or refusing to**
46 **renew or reinstate a license or certificate of authority.**

47 **8. Penalties collected under this section shall be handled in**
48 **accordance with section 7 of article IX of the Missouri**

49 **Constitution. Such penalties shall not be considered a charitable**
50 **contribution for tax purposes.**

345.015. As used in sections 345.010 to 345.080, the following terms
2 mean:

3 (1) "Audiologist", a person who is licensed as an audiologist pursuant to
4 sections 345.010 to 345.080 to practice audiology;

5 (2) "Audiology aide", a person who is registered as an audiology aide by
6 the board, who does not act independently but works under the direction and
7 supervision of a licensed audiologist. Such person assists the audiologist with
8 activities which require an understanding of audiology but do not require formal
9 training in the relevant academics. To be eligible for registration by the board,
10 each applicant shall submit a registration fee, be of good moral and ethical
11 character; and:

12 (a) Be at least eighteen years of age;

13 (b) Furnish evidence of the person's educational qualifications which shall
14 be at a minimum:

15 a. Certification of graduation from an accredited high school or its
16 equivalent; and

17 b. On-the-job training;

18 (c) Be employed in a setting in which direct and indirect supervision are
19 provided on a regular and systematic basis by a licensed audiologist.

20 However, the aide shall not administer or interpret hearing screening or
21 diagnostic tests, fit or dispense hearing instruments, make ear impressions, make
22 diagnostic statements, determine case selection, present written reports to anyone
23 other than the supervisor without the signature of the supervisor, make referrals
24 to other professionals or agencies, use a title other than speech-language
25 pathology aide or clinical audiology aide, develop or modify treatment plans,
26 discharge clients from treatment or terminate treatment, disclose clinical
27 information, either orally or in writing, to anyone other than the supervising
28 speech-language pathologist/audiologist, or perform any procedure for which he
29 or she is not qualified, has not been adequately trained or both;

30 (3) "Board", the state board of registration for the healing arts;

31 (4) "Clinical fellowship", the supervised professional employment period
32 following completion of the academic and practicum requirements of an accredited
33 training program as defined in sections 345.010 to 345.080;

34 (5) "Commission", the advisory commission for speech-language

35 pathologists and audiologists;

36 (6) "Hearing instrument" or "hearing aid", any wearable device or
37 instrument designed for or offered for the purpose of aiding or compensating for
38 impaired human hearing and any parts, attachments or accessories, including ear
39 molds, but excluding batteries, cords, receivers and repairs;

40 (7) "Person", any individual, organization, or corporate body, except that
41 only individuals may be licensed pursuant to sections 345.010 to 345.080;

42 (8) "Practice of audiology":

43 (a) The application of accepted audiologic principles, methods and
44 procedures for the measurement, testing, interpretation, appraisal and prediction
45 related to disorders of the auditory system, balance system or related structures
46 and systems;

47 (b) Provides consultation, counseling to the patient, client, student, their
48 family or interested parties;

49 (c) Provides academic, social and medical referrals when appropriate;

50 (d) Provides for establishing goals, implementing strategies, methods and
51 techniques, for habilitation, rehabilitation or aural rehabilitation, related to
52 disorders of the auditory system, balance system or related structures and
53 systems;

54 (e) Provides for involvement in related research, teaching or public
55 education;

56 (f) Provides for rendering of services or participates in the planning,
57 directing or conducting of programs which are designed to modify audition,
58 communicative, balance or cognitive disorder, which may involve speech and
59 language or education issues;

60 (g) Provides and interprets behavioral and neurophysiologic
61 measurements of auditory balance, cognitive processing and related functions,
62 including intraoperative monitoring;

63 (h) Provides involvement in any tasks, procedures, acts or practices that
64 are necessary for evaluation of audition, hearing, training in the use of
65 amplification or assistive listening devices;

66 (i) Provides selection [and], assessment, **fitting, programming, and**
67 **dispensing** of hearing instruments, **assistive listening devices, and other**
68 **amplification systems**;

69 (j) Provides for taking impressions of the ear, making custom ear molds,
70 ear plugs, swim molds and industrial noise protectors;

- 71 (k) Provides assessment of external ear and cerumen management;
- 72 (l) Provides advising, fitting, mapping assessment of implantable devices
73 such as cochlear or auditory brain stem devices;
- 74 (m) Provides information in noise control and hearing conservation
75 including education, equipment selection, equipment calibration, site evaluation
76 and employee evaluation;
- 77 (n) Provides performing basic speech-language screening test;
- 78 (o) Provides involvement in social aspects of communication, including
79 challenging behavior and ineffective social skills, lack of communication
80 opportunities;
- 81 (p) Provides support and training of family members and other
82 communication partners for the individual with auditory balance, cognitive and
83 communication disorders;
- 84 (q) Provides aural rehabilitation and related services to individuals with
85 hearing loss and their families;
- 86 (r) Evaluates, collaborates and manages audition problems in the
87 assessment of the central auditory processing disorders and providing
88 intervention for individuals with central auditory processing disorders;
- 89 (s) Develops and manages academic and clinical problems in
90 communication sciences and disorders;
- 91 (t) Conducts, disseminates and applies research in communication
92 sciences and disorders;
- 93 (9) "Practice of speech-language pathology":
- 94 (a) Provides screening, identification, assessment, diagnosis, treatment,
95 intervention, including but not limited to prevention, restoration, amelioration
96 and compensation, and follow-up services for disorders of:
- 97 a. Speech: articulation, fluency, voice, including respiration, phonation
98 and resonance;
- 99 b. Language, involving the parameters of phonology, morphology, syntax,
100 semantics and pragmatic; and including disorders of receptive and expressive
101 communication in oral, written, graphic and manual modalities;
- 102 c. Oral, pharyngeal, cervical esophageal and related functions, such as
103 dysphagia, including disorders of swallowing and oral functions for feeding;
104 orofacial myofunctional disorders;
- 105 d. Cognitive aspects of communication, including communication disability
106 and other functional disabilities associated with cognitive impairment;

107 e. Social aspects of communication, including challenging behavior,
108 ineffective social skills, lack of communication opportunities;

109 (b) Provides consultation and counseling and makes referrals when
110 appropriate;

111 (c) Trains and supports family members and other communication
112 partners of individuals with speech, voice, language, communication and
113 swallowing disabilities;

114 (d) Develops and establishes effective augmentative and alternative
115 communication techniques and strategies, including selecting, prescribing and
116 dispensing of augmentative aids and devices; and the training of individuals,
117 their families and other communication partners in their use;

118 (e) Selects, fits and establishes effective use of appropriate
119 prosthetic/adaptive devices for speaking and swallowing, such as
120 tracheoesophageal valves, electrolarynges, or speaking valves;

121 (f) Uses instrumental technology to diagnose and treat disorders of
122 communication and swallowing, such as videofluoroscopy, nasendoscopy,
123 ultrasonography and stroboscopy;

124 (g) Provides aural rehabilitative and related counseling services to
125 individuals with hearing loss and to their families;

126 (h) Collaborates in the assessment of central auditory processing disorders
127 in cases in which there is evidence of speech, language or other cognitive
128 communication disorders; provides intervention for individuals with central
129 auditory processing disorders;

130 (i) Conducts pure-tone air conduction hearing screening and screening
131 tympanometry for the purpose of the initial identification or referral;

132 (j) Enhances speech and language proficiency and communication
133 effectiveness, including but not limited to accent reduction, collaboration with
134 teachers of English as a second language and improvement of voice, performance
135 and singing;

136 (k) Trains and supervises support personnel;

137 (l) Develops and manages academic and clinical programs in
138 communication sciences and disorders;

139 (m) Conducts, disseminates and applies research in communication
140 sciences and disorders;

141 (n) Measures outcomes of treatment and conducts continuous evaluation
142 of the effectiveness of practices and programs to improve and maintain quality

143 of services;

144 (10) "Speech-language pathologist", a person who is licensed as a
145 speech-language pathologist pursuant to sections 345.010 to 345.080; who engages
146 in the practice of speech-language pathology as defined in sections 345.010 to
147 345.080;

148 (11) "Speech-language pathology aide", a person who is registered as a
149 speech-language aide by the board, who does not act independently but works
150 under the direction and supervision of a licensed speech-language
151 pathologist. Such person assists the speech-language pathologist with activities
152 which require an understanding of speech-language pathology but do not require
153 formal training in the relevant academics. To be eligible for registration by the
154 board, each applicant shall submit a registration fee, be of good moral and ethical
155 character; and:

156 (a) Be at least eighteen years of age;

157 (b) Furnish evidence of the person's educational qualifications which shall
158 be at a minimum:

159 a. Certification of graduation from an accredited high school or its
160 equivalent; and

161 b. On-the-job training;

162 (c) Be employed in a setting in which direct and indirect supervision is
163 provided on a regular and systematic basis by a licensed speech-language
164 pathologist. However, the aide shall not administer or interpret hearing
165 screening or diagnostic tests, fit or dispense hearing instruments, make ear
166 impressions, make diagnostic statements, determine case selection, present
167 written reports to anyone other than the supervisor without the signature of the
168 supervisor, make referrals to other professionals or agencies, use a title other
169 than speech-language pathology aide or clinical audiology aide, develop or modify
170 treatment plans, discharge clients from treatment or terminate treatment,
171 disclose clinical information, either orally or in writing, to anyone other than the
172 supervising speech-language pathologist/audiologist, or perform any procedure for
173 which he or she is not qualified, has not been adequately trained or both;

174 (12) "Speech-language pathology assistant", a person who is registered as
175 a speech-language pathology assistant by the board, who does not act
176 independently but works under the direction and supervision of a licensed
177 speech-language pathologist and whose activities require both academic and
178 practical training in the field of speech-language pathology although less training

179 than those established by sections 345.010 to 345.080 as necessary for licensing
180 as a speech-language pathologist. To be eligible for registration by the board,
181 each applicant shall submit the registration fee, be of good moral character and
182 furnish evidence of the person's educational qualifications which meet the
183 following:

184 (a) Hold a bachelor's level degree in the field of speech-language pathology
185 from an institution accredited or approved by a regional accrediting body
186 recognized by the United States Department of Education or its equivalent; and

187 (b) Submit official transcripts from one or more accredited colleges or
188 universities presenting evidence of the completion of bachelor's level course work
189 and clinical practicum requirements equivalent to that required or approved by
190 a regional accrediting body recognized by the United States Department of
191 Education or its equivalent.

345.030. 1. The board shall administer, coordinate, and enforce the
2 provisions of sections 345.010 to 345.080, evaluate the qualifications of
3 applicants, supervise the examination of applicants, issue licenses, and shall
4 investigate persons engaging in practices which appear to violate the provisions
5 of sections 345.010 to 345.080.

6 2. The board shall conduct such hearings and keep such records and
7 minutes as shall be necessary to an orderly dispatch of business.

8 3. The board shall adopt reasonable rules and regulations which establish
9 ethical standards of practice and may amend or repeal the same. **Rules and**
10 **regulations shall be adopted that ensure consumer protection related**
11 **to hearing instrument dispensing that meet or exceed those provided**
12 **under sections 346.007 to 346.250, RSMo, and rules and regulations**
13 **promulgated pursuant thereto.**

14 4. Regular meetings of the commission shall be held at such times and
15 places as it prescribes, and special meetings may be held upon the call of the
16 chairperson or by request of at least two other members of the commission, but
17 at least one regular meeting shall be held each year.

18 5. No rule or portion of a rule promulgated pursuant to the authority of
19 sections 345.010 to 345.080 shall become effective unless it has been promulgated
20 pursuant to the provisions of chapter 536, RSMo.

345.033. 1. Any person licensed under sections 345.010 to 345.080
2 **who dispenses products associated with professional practice to clients**
3 **for remuneration shall deliver to each person supplied with a product**

4 a completed purchase agreement which shall include the terms of the
5 sale clearly stated using ordinary English language and terminology
6 which is easily understood by the purchaser. If a product which is not
7 new is sold, the purchase agreement and the container thereof shall be
8 clearly marked as "used", "recased", or "reconditioned", whichever is
9 applicable, with terms of guarantee, if any.

10 2. Any audiologist licensed under sections 345.010 to 345.080 who
11 dispenses hearing instruments shall include in the purchase agreement
12 for a hearing instrument the following:

13 (1) The licensee's signature, business address, and license
14 number;

15 (2) The specifications of the hearing instrument dispensed
16 including make, model, and serial number;

17 (3) The exact amount of any down payment;

18 (4) The length of any trial period provided;

19 (5) The amount of any charges or service fees connected with any
20 trial period;

21 (6) A description of the right of the purchaser to return the
22 hearing instrument or written notification that no such right exists;

23 (7) The name of the manufacturer of the component parts and
24 the assembler or reassembler of the hearing instrument when the
25 product sold is remanufactured or assembled by someone other than
26 the manufacturer of the component parts.

345.045. 1. Except as otherwise provided in this section, all
2 moneys received pursuant to sections 345.010 to 345.080 shall be collected by the
3 division of professional registration and shall be transmitted to the department
4 of revenue for deposit in the state treasury to the credit of the board of
5 registration for the healing arts fund.

6 2. Effective July 1, 2008, the board shall, in every odd numbered
7 year, transfer from the "Board of Registration for the Healing Arts
8 Fund" to the "Hearing Instrument Specialist Fund" an amount not to
9 exceed sixty-one thousand dollars per transfer as necessary to replace
10 decreased renewal fees received by the board of examiners for hearing
11 instrument specialists as a result of the decrease in licensees under
12 subsection 2 of section 346.060, RSMo. The initial transfer amount shall
13 be equal to the license renewal fees paid during fiscal years 2006 and
14 2007 by individuals licensed under subsection 2 of section 346.060,

15 **RSMo. The amount of subsequent transfers may decrease each odd**
16 **numbered year. Any decrease shall be no more than twenty-five**
17 **percent of the initial transfer amount. The transfer amount shall be**
18 **requested through the legislative budget process by the director of the**
19 **division of professional registration, with the advice and consultation**
20 **of the board and the board of examiners for hearing instrument**
21 **specialists.**

22 **3. Moneys collected and deposited under this section may be**
23 **used to assist in the enforcement of the statutes relating to the fitting**
24 **and dispensing of hearing aids by unlicensed individuals.**

345.055. 1. The board shall charge a license or registration renewal fee
2 for each license or registration renewed. Persons possessing the required training
3 and qualifications to be licensed or registered as both a speech-language
4 pathologist and audiologist shall receive both licenses, which for the purposes of
5 this section shall be considered as a single license or certificate. Duplicate
6 licenses or certificates shall be issued without additional charge to persons
7 practicing in more than one location. Persons who allow their licenses to lapse
8 shall submit a reinstatement fee, and if the license has lapsed for more than a
9 three-year period, the board may require reexamination.

10 2. The fees prescribed by section 345.051 and this section shall be
11 exclusive, and notwithstanding any other provision of law, no municipality may
12 require any person licensed pursuant to the provisions of sections 345.010 to
13 345.080 to furnish any bond, pass any examination, or pay any license fee or
14 occupational tax.

15 3. The board shall set the amount of the fees which sections 345.010 to
16 345.080 authorize and require by rules and regulations promulgated pursuant to
17 section 536.021, RSMo. The fees shall be set at a level to produce:

18 **(1) Revenue which shall not substantially exceed the cost and expense of**
19 **administering sections 345.010 to 345.080; and**

20 **(2) Effective July 1, 2008, any transfer required from the board**
21 **under subsection 2 of section 345.045.**

346.015. 1. No person shall engage in the practice of fitting hearing
2 instruments or display a sign or in any other way advertise or represent such
3 person by any other words, letters, abbreviations or insignia indicating or
4 implying that the person practices the fitting of hearing instruments unless the
5 person holds a valid license issued by the division as provided in this

6 chapter. The license shall be conspicuously posted in the person's office or place
7 of business. Duplicate licenses shall be issued by the department to valid license
8 holders operating more than one office, without additional payment. A license
9 under this chapter shall confer upon the holder the right to select, fit and sell
10 hearing instruments.

11 2. Each person licensed pursuant to sections 346.010 to 346.250 shall
12 display the license in an appropriate and public manner and shall keep the board
13 informed of the licensee's current address. A license issued pursuant to sections
14 346.010 to 346.250 is the property of the division and must be surrendered on
15 demand in the event of expiration or after a final determination is made with
16 respect to revocation, suspension or probation.

17 3. Nothing in this chapter shall prohibit a corporation, partnership, trust,
18 association or other like organization maintaining an established business
19 address from engaging in the business of selling or offering for sale hearing
20 instruments at retail, provided that it employ only properly licensed hearing
21 instrument specialists **or properly licensed audiologists** in the direct sale
22 and fitting of such instruments. Each corporation, partnership, trust, association
23 or other like organization shall file annually with the board on a form provided
24 by the board, a list of all licensed hearing instrument specialists employed by
25 it. Each organization shall also file with the division a statement, on a form
26 provided by the division, that it agrees to comply with the rules and regulations
27 of the division and the provisions of **this chapter**.

28 4. Any person who violates any provision of this section is guilty of a class
29 B misdemeanor.

346.030. Sections 346.010 to 346.250 [are not intended to prevent] **shall**
2 **not apply to** any audiologist licensed pursuant to chapter 345, RSMo, [from
3 engaging in the practice of measuring human hearing for the purpose of selection
4 of hearing aids, provided such audiologist, or organization employing such
5 audiologist, does not sell hearing instruments, or accessories thereto, except in
6 the case of earmolds provided by an audiologist to be used only for the purpose
7 of audiologic evaluation] **while practicing exclusively under that license**.

346.035. [1.] Sections 346.010 to 346.250 shall not apply to a person who
2 is a physician licensed to practice in Missouri pursuant to chapter 334, RSMo.

3 [2. Sections 346.010 to 346.250 shall not apply to an audiologist, provided
4 such person or organization employing such person does not engage in the sale
5 of hearing aids.]

346.055. 1. An applicant may obtain a license by successfully passing a
2 qualifying examination of the type described in sections 346.010 to 346.250,
3 provided the applicant:

4 (1) Is at least twenty-one years of age;

5 (2) Is of good moral character; **and**

6 (3) **Until December 31, 2008**, has an education equivalent to at least
7 a high school diploma from an accredited high school.

8 **2. Beginning January 1, 2009, an applicant for a hearing**
9 **instrument specialist license or a hearing instrument specialist-in-**
10 **training permit shall demonstrate successful completion of a minimum**
11 **of sixty semester hours, or its equivalent, at a state or regionally**
12 **accredited institution of higher education.**

13 **3. Beginning January 1, 2011, an applicant for a hearing**
14 **instrument specialist license or a hearing instrument specialist-in-**
15 **training permit shall hold an associate's level degree or higher from a**
16 **state or regionally accredited institution of higher education.**

17 **4. Beginning January 1, 2013, or any date thereafter when an**
18 **associate degree program in hearing instrument sciences is available**
19 **from a state or regionally accredited institution within Missouri, an**
20 **applicant for a hearing instrument specialist license or a hearing**
21 **instrument specialist-in-training permit shall hold:**

22 (1) **An associate's degree or higher in hearing instrument**
23 **sciences; or**

24 (2) **A master's or doctoral degree in audiology from a state or**
25 **regionally accredited institution.**

26 **5. The provisions of subsections 2, 3, and 4 of this section shall**
27 **not apply to any person holding a valid Missouri hearing instrument**
28 **specialist license under this chapter when applying for the renewal of**
29 **that license. These provisions shall apply to any person holding a**
30 **hearing instrument specialist-in-training permit at the time of their**
31 **application for licensure or renewal of said permit.**

346.060. [1.] An applicant for license by examination shall appear at a
2 time, place, and before such persons as the board may designate to be examined
3 by means of written and practical tests in order to demonstrate that the applicant
4 is qualified to engage in the practice of fitting hearing instruments. Nothing in
5 this examination shall imply that the applicant shall possess the degree of
6 medical competence normally expected of physicians.

7 [2. Notwithstanding the provisions of subsection 1 of this section, any
8 applicant who is an audiologist licensed pursuant to chapter 345, RSMo, and who
9 holds the certification of clinical competence or is completing the clinical
10 fellowship year offered by the American Speech-Language-Hearing Association
11 shall not be required to pass either the written exam or the practical exam for
12 licensure as a hearing instrument specialist in this state.]

346.110. No person shall:

- 2 (1) Sell through the mails, hearing instruments without prior fitting and
3 testing by a hearing instrument specialist **licensed under this chapter or an**
4 **audiologist licensed under chapter 345, RSMo;**
- 5 (2) Sell, barter, or offer to sell or barter a license;
- 6 (3) Purchase or procure by barter a license with intent to use it as
7 evidence of the holder's qualification to engage in the practice of fitting hearing
8 instruments;
- 9 (4) Alter a license with fraudulent intent;
- 10 (5) Use or attempt to use as a valid license a license which has been
11 purchased, fraudulently obtained, counterfeited or materially altered;
- 12 (6) Willfully make a false statement in an application for license or
13 application for renewal of a license.

383.130. As used in sections 383.130[,] **and** 383.133 [and 383.500], the
2 following terms shall mean:

- 3 (1) "Disciplinary action", any final action taken by the board of trustees
4 or similarly empowered officials of a hospital or ambulatory surgical center, **or**
5 **owner or operator of a temporary nursing staffing agency**, to reprimand,
6 discipline or restrict the practice of a health care professional. [If the health care
7 professional is a physician or surgeon,] Only such reprimands, discipline, or
8 restrictions in response to activities which are also grounds for disciplinary
9 actions [pursuant to section 334.100, RSMo,] **according to the professional**
10 **licensing law for that health care professional** shall be considered
11 disciplinary actions for the purposes of this definition[. If the health care
12 professional is a dentist, only such reprimands, discipline, or restrictions in
13 response to activities which are also grounds for disciplinary actions pursuant to
14 section 332.321, RSMo, shall be considered disciplinary actions for the purposes
15 of this definition];
- 16 (2) "Health care professional", a physician or surgeon licensed under the
17 provisions of chapter 334, RSMo, a dentist licensed under the provisions of

18 chapter 332, RSMo, or a podiatrist licensed under the provisions of chapter 330,
19 RSMo, or a pharmacist licensed under the provisions of chapter 338, RSMo, a
20 psychologist licensed under the provisions of chapter 337, RSMo, or a nurse
21 licensed under the provisions of chapter 335, RSMo, while acting within their
22 scope of practice;

23 (3) "Hospital", a place devoted primarily to the maintenance and operation
24 of facilities for the diagnosis, treatment or care for not less than twenty-four
25 hours in any week of three or more nonrelated individuals suffering from illness,
26 disease, injury, deformity or other abnormal physical conditions; or a place
27 devoted primarily to provide for not less than twenty-four hours in any week
28 medical or nursing care for three or more nonrelated individuals. The term
29 "hospital" does not include convalescent, nursing, shelter or boarding homes as
30 defined in chapter 198, RSMo;

31 (4) "Licensing authority", the appropriate board or authority which is
32 responsible for the licensing or regulation of the health care professional;

33 (5) **"Temporary nursing staffing agency", any person, firm,**
34 **partnership, or corporation doing business within the state that**
35 **supplies, on a temporary basis, registered nurses, licensed practical**
36 **nurses to a hospital, nursing home, or other facility requiring the**
37 **services of those persons.**

383.133. 1. [Beginning on January 1, 1987,] The chief executive office **or**
2 **similarly empowered official** of any hospital [or], ambulatory surgical center,
3 as such [term is] **terms are** defined in [section 197.200] **chapter 197**, RSMo,
4 **or temporary nursing staffing agency**, shall report to the appropriate health
5 care professional licensing authority any disciplinary action against any health
6 care professional or the voluntary resignation of any health care professional
7 against whom any complaints or reports have been made which might have led
8 to disciplinary action.

9 2. All reports required by this section shall be submitted within fifteen
10 days of the final disciplinary action and shall contain, but need not be limited to,
11 the following information:

12 (1) The name, address and telephone number of the person making the
13 report;

14 (2) The name, address and telephone number of the person who is the
15 subject of the report;

16 (3) A [brief] description of the facts, **including as much detail and**

17 **information as possible**, which gave rise to the issuance of the report,
18 including the dates of occurrence deemed to necessitate the filing of the report;

19 (4) If court action is involved and known to the reporting agent, the
20 identity of the court, including the date of filing and the docket number of the
21 action.

22 3. Upon request, the licensing authority may furnish a report of any
23 disciplinary action received by it under the provisions of this section to any [of
24 the hospitals or ambulatory surgical centers] **entity** required to report **under**
25 **this section**. Such licensing authority may also furnish, upon request, a report
26 of disciplinary action taken by the licensing authority to any other administrative
27 or law enforcement agency acting within the scope of its statutory authority.

28 4. There shall be no liability on the part of, and no cause of action of any
29 nature shall arise against any health care professional licensing authority or any
30 [hospital or ambulatory surgical center] **entity** required to report under this
31 section, or any of their agents or employees for any action taken in good faith and
32 without malice in carrying out the provisions of this section.

33 5. Neither a report required to be filed under subsection 2 of this section
34 nor the record of any proceeding shall be used against a health care professional
35 in any other administrative or judicial proceeding.

36 6. Violation of any provision of this section is an infraction.

621.045. 1. The administrative hearing commission shall conduct
2 hearings and make findings of fact and conclusions of law in those cases when,
3 under the law, a license issued by any of the following agencies may be revoked
4 or suspended or when the licensee may be placed on probation or when an agency
5 refuses to permit an applicant to be examined upon his qualifications or refuses
6 to issue or renew a license of an applicant who has passed an examination for
7 licensure or who possesses the qualifications for licensure without examination:

8 Missouri State Board of Accountancy
9 Missouri **State** Board [of Registration] for Architects, Professional
10 Engineers [and], **Professional Land Surveyors and Landscape Architects**
11 Board of Barber Examiners
12 Board of Cosmetology
13 Board of Chiropody and Podiatry
14 Board of Chiropractic Examiners
15 Missouri Dental Board
16 Board of Embalmers and Funeral Directors

17 Board of Registration for the Healing Arts

18 Board of Nursing

19 Board of Optometry

20 Board of Pharmacy

21 Missouri Real Estate Commission

22 Missouri Veterinary Medical Board

23 Supervisor of Liquor Control

24 Department of Health and Senior Services

25 Department of Insurance

26 Department of Mental Health

27 **Board of Private Investigator Examiners.**

28 2. If in the future there are created by law any new or additional
29 administrative agencies which have the power to issue, revoke, suspend, or place
30 on probation any license, then those agencies are under the provisions of this law.

31 3. **The administrative hearing commission is authorized to**
32 **conduct hearings and make findings of fact and conclusions of law in**
33 **those cases brought by the Missouri state board for architects,**
34 **professional engineers, professional land surveyors and landscape**
35 **architects against unlicensed persons under section 327.076, RSMo.**

36 4. Notwithstanding any other provision of this section to the contrary,
37 after August 28, 1995, in order to encourage settlement of disputes between any
38 agency described in subsection 1 or 2 of this section and its licensees, any such
39 agency shall:

40 (1) Provide the licensee with a written description of the specific conduct
41 for which discipline is sought and a citation to the law and rules allegedly
42 violated, together with copies of any documents which are the basis thereof and
43 the agency's initial settlement offer, or file a contested case against the licensee;

44 (2) If no contested case has been filed against the licensee, allow the
45 licensee at least sixty days, from the date of mailing, to consider the agency's
46 initial settlement offer and to contact the agency to discuss the terms of such
47 settlement offer;

48 (3) If no contested case has been filed against the licensee, advise the
49 licensee that the licensee may, either at the time the settlement agreement is
50 signed by all parties, or within fifteen days thereafter, submit the agreement to
51 the administrative hearing commission for determination that the facts agreed
52 to by the parties to the settlement constitute grounds for denying or disciplining

53 the license of the licensee; and

54 (4) In any contact [pursuant to] **under** this subsection by the agency or
55 its counsel with a licensee who is not represented by counsel, advise the licensee
56 that the licensee has the right to consult an attorney at the licensee's own
57 expense.

58 [4.] **5.** If the licensee desires review by the administrative hearing
59 commission [pursuant to] **under** subdivision (3) of subsection [3] **4** of this section
60 at any time prior to the settlement becoming final, the licensee may rescind and
61 withdraw from the settlement and any admissions of fact or law in the agreement
62 shall be deemed withdrawn and not admissible for any purposes under the law
63 against the licensee. Any settlement submitted to the administrative hearing
64 commission shall not be effective and final unless and until findings of fact and
65 conclusions of law are entered by the administrative hearing commission that the
66 facts agreed to by the parties to the settlement constitute grounds for denying or
67 disciplining the license of the licensee.

[327.111. Any person who practices architecture in Missouri
2 as defined in section 327.091, who is not exempt pursuant to the
3 provisions of section 327.101, or who is not the holder of a
4 currently valid license or certificate of authority to practice
5 architecture in Missouri, or who pretends or attempts to use as
6 such person's own the license or certificate of authority or the seal
7 of another architect or who affixes his or her or another's
8 architect's seal on any plans, specifications, drawings, or reports
9 which have not been prepared by such person or under such
10 person's immediate personal supervision, is guilty of a class A
11 misdemeanor.]

[327.201. Any person who practices professional
2 engineering in Missouri as defined in section 327.181, who is not
3 exempt pursuant to the provisions of section 327.191 and who is
4 not the holder of a currently valid license or certificate of authority
5 to practice professional engineering in Missouri, or who pretends
6 or attempts to use as such person's own the license or certificate of
7 authority or the seal of another professional engineer, or who
8 affixes such person's or another professional engineer's seal on any
9 plans, specifications, drawings or reports which have not been
10 prepared by such person or under such person's immediate

11 personal supervision is guilty of a class A misdemeanor.]

12 [327.291. Any person who practices as a professional land
13 surveyor in Missouri as defined in section 327.272, who is not a
14 holder of a currently valid license or certificate of authority to
15 practice professional land surveying in Missouri, or who pretends
16 or attempts to use as such person's own the license or certificate of
17 authority or the seal of another professional land surveyor or who
18 affixes such person's or another professional land surveyor's seal
19 on any map, plat, survey or other document which has not been
20 prepared by such person or under such person's immediate
personal supervision is guilty of a class A misdemeanor.]

[327.633. Any person violating any of the provisions of
2 sections 327.600 to 327.635 is deemed guilty of a class A
3 misdemeanor.]

[336.090. 1. Upon payment of a fee equivalent to the
2 examination and certificate fees, an applicant who is an
3 optometrist, registered or licensed under the laws of another state
4 or territory of the United States, or of a foreign country or province
5 shall, without examination, be granted a certificate of registration
6 as a registered optometrist by the state board of optometry upon
7 the following conditions:

8 (1) That the applicant is at least twenty-one years of age,
9 of good moral character; and

10 (2) That the requirements for the registration or licensing
11 of optometrists in the particular state, territory, country or
12 province, were, at the date of the license, substantially equal to the
13 requirements then in force in this state.

14 2. The board may by rule and regulation require applicants
15 under this section to satisfactorily complete any practical
16 examination or any examination on Missouri laws required
17 pursuant to section 336.050.]

[336.200. Any person, firm or corporation employing a
2 registered optometrist may advertise the availability of optometric
3 service, provided that the names of the registered optometrists
4 providing such service are included in all printed
5 advertisements. The violation of any provision of this section shall

6 constitute an infraction, punishable upon conviction, by a fine of
7 not less than twenty-five dollars nor more than two hundred
8 dollars.]

[337.606. For a period of twenty-four months from July 1,
2 1990, applicants for licensure shall be exempted from the academic
3 requirements of sections 337.600 to 337.639 if the committee is
4 satisfied that the applicant has acceptable educational
5 qualifications, or social work experience, or is currently engaged in
6 the practice of clinical social work. After that time no person shall
7 engage in clinical social work practice for compensation or hold
8 himself or herself out as a licensed clinical social worker unless the
9 person is licensed in accordance with the provisions of sections
10 337.600 to 337.639.]

[337.609. No provision of sections 337.600 to 337.639 shall
2 be construed to require any agency, corporation, or organization,
3 not otherwise required by law, to employ licensed clinical social
4 workers.]

[337.624. 1. No part of this section or of chapter 354 or
2 375, RSMo, shall be construed to mandate benefits or third-party
3 reimbursement for services of social workers in the policies or
4 contracts of any insurance company, health services corporation, or
5 other third-party payer.

6 2. This section shall not be construed to effect procedures
7 for billing for social work services provided by agencies,
8 corporations, or organizations which employ licensed social
9 workers.]

[337.639. Nothing in sections 337.600 to 337.639 shall be
2 construed to prohibit any person licensed under the provisions of
3 sections 337.600 to 337.639 from testifying in court hearings
4 concerning matters of adoption, adult abuse, child abuse, child
5 neglect, or other matters pertaining to the welfare of children or
6 any dependent person, or from seeking collaboration or consultation
7 with professional colleagues or administrative supervisors on
8 behalf of the client.]

[337.650. As used in sections 337.650 to 337.689, the
2 following terms mean:

3 (1) "Committee", the state committee for social work
4 established in section 337.622;

5 (2) "Department", the Missouri department of economic
6 development;

7 (3) "Director", the director of the division of professional
8 registration in the department of economic development;

9 (4) "Division", the division of professional registration;

10 (5) "Licensed baccalaureate social worker", any person who
11 offers to render services to individuals, groups, organizations,
12 institutions, corporations, government agencies or the general
13 public for a fee, monetary or otherwise, implying that the person is
14 trained, experienced and licensed as a baccalaureate social worker,
15 and who holds a current valid license to practice as a baccalaureate
16 social worker;

17 (6) "Practice of baccalaureate social work", rendering,
18 offering to render or supervising those who render to individuals,
19 families, groups, organizations, institutions, corporations or the
20 general public any service involving the application of methods,
21 principles, and techniques of baccalaureate social work;

22 (7) "Provisional licensed baccalaureate social worker", any
23 person who is a graduate of an accredited school of social work and
24 meets all requirements of a licensed baccalaureate social worker,
25 other than the supervised baccalaureate social work experience
26 prescribed by subdivision (3) of subsection 1 of section 337.665, and
27 who is supervised by a licensed clinical social worker or a licensed
28 baccalaureate social worker, as defined by rule.]

[337.659. No provision of sections 337.650 to 337.689 shall
2 be construed to require any agency, corporation or organization, not
3 otherwise required by law, to employ licensed baccalaureate social
4 workers.]

[337.668. The term of each license issued pursuant to the
2 provisions of sections 337.650 to 337.689 shall be no less than
3 twenty-four and no more than forty-eight consecutive calendar
4 months. All licensees shall annually complete fifteen hours of
5 continuing education units. The committee shall renew any
6 license, other than a provisional license, upon application for a

7 renewal, submission of documentation of the completion of the
8 required annual hours of continuing education and payment of the
9 fee established by the committee pursuant to the provisions of
10 section 337.662.]

[337.674. No part of this section or of chapter 354 or 375,
2 RSMo, shall be construed to mandate benefits or third-party
3 reimbursement for services of social workers in the policies or
4 contracts of any insurance company, health services corporation, or
5 other third-party payer.]

[337.677. 1. The committee shall promulgate rules and
2 regulations pertaining to:

3 (1) The form and content of license applications required by
4 the provisions of sections 337.650 to 337.689 and the procedures for
5 filing an application for an initial or renewal license in this state;

6 (2) Fees required by the provisions of sections 337.650 to
7 337.689;

8 (3) The characteristics of "supervised baccalaureate
9 experience" as that term is used in section 337.665;

10 (4) The standards and methods to be used in assessing
11 competency as a licensed baccalaureate social worker, including the
12 requirement for annual continuing education units;

13 (5) Establishment and promulgation of procedures for
14 investigating, hearing and determining grievances and violations
15 occurring pursuant to the provisions of sections 337.650 to 337.689;

16 (6) Development of an appeal procedure for the review of
17 decisions and rules of administrative agencies existing pursuant to
18 the constitution or laws of this state;

19 (7) Establishment of a policy and procedure for reciprocity
20 with other states, including states which do not have baccalaureate
21 or clinical social worker licensing laws or states whose licensing
22 laws are not substantially the same as those of this state; and

23 (8) Any other policies or procedures necessary to the
24 fulfillment of the requirements of sections 337.650 to 337.689.

25 2. Any rule or portion of a rule, as that term is defined in
26 section 536.010, RSMo, that is created under the authority
27 delegated in sections 337.650 to 337.689 shall become effective only

28 if it complies with and is subject to all of the provisions of chapter
29 536, RSMo, and, if applicable, section 536.028, RSMo. This section
30 and chapter 536, RSMo, are nonseverable and if any of the powers
31 vested with the general assembly pursuant to chapter 536, RSMo,
32 to review, to delay the effective date or to disapprove and annul a
33 rule are subsequently held unconstitutional, then the grant of
34 rulemaking authority and any rule proposed or adopted after
35 August 28, 2001, shall be invalid and void.]

[337.680. 1. The committee may refuse to issue or renew
2 any license required by the provisions of sections 337.650 to
3 337.689 for one or any combination of causes stated in subsection
4 2 of this section. The committee shall notify the applicant in
5 writing of the reasons for the refusal and shall advise the applicant
6 of the applicant's right to file a complaint with the administrative
7 hearing commission as provided by chapter 621, RSMo.

8 2. The committee may cause a complaint to be filed with
9 the administrative hearing commission as provided by chapter 621,
10 RSMo, against any holder of any license required by sections
11 337.650 to 337.689 or any person who has failed to renew or has
12 surrendered the person's license for any one or any combination of
13 the following causes:

14 (1) Use of any controlled substance, as defined in chapter
15 195, RSMo, or alcoholic beverage to an extent that such use
16 impairs a person's ability to engage in the occupation of
17 baccalaureate social work; except that the fact that a person has
18 undergone treatment for past substance or alcohol abuse and/or has
19 participated in a recovery program shall not by itself be cause for
20 refusal to issue or renew a license;

21 (2) The person has been finally adjudicated and found
22 guilty, or entered a plea of guilty or nolo contendere, in a criminal
23 prosecution pursuant to the laws of any state or of the United
24 States, for any offense reasonably related to the qualifications,
25 functions or duties of a baccalaureate social worker; for any offense
26 an essential element of which is fraud, dishonesty or an act of
27 violence; or for any offense involving moral turpitude, whether or
28 not sentence is imposed;

29 (3) Use of fraud, deception, misrepresentation or bribery in
30 securing any license issued pursuant to the provisions of sections
31 337.650 to 337.689 or in obtaining permission to take any
32 examination given or required pursuant to the provisions of
33 sections 337.650 to 337.689;

34 (4) Obtaining or attempting to obtain any fee, charge,
35 tuition or other compensation by fraud, deception or
36 misrepresentation;

37 (5) Incompetency, misconduct, fraud, misrepresentation or
38 dishonesty in the performance of the functions or duties of a
39 baccalaureate social worker;

40 (6) Violation of, or assisting or enabling any person to
41 violate, any provision of sections 337.650 to 337.689, or of any
42 lawful rule or regulation adopted pursuant to sections 337.650 to
43 337.689;

44 (7) Impersonation of any person holding a license or
45 allowing any person to use the person's license or diploma from any
46 school;

47 (8) Revocation or suspension of a license or other right to
48 practice baccalaureate social work granted by another state,
49 territory, federal agency or country upon grounds for which
50 revocation or suspension is authorized in this state;

51 (9) Final adjudication as incapacitated by a court of
52 competent jurisdiction;

53 (10) Assisting or enabling any person to practice or offer to
54 practice baccalaureate social work who is not licensed and
55 currently eligible to practice pursuant to the provisions of sections
56 337.650 to 337.689;

57 (11) Obtaining a license based upon a material mistake of
58 fact;

59 (12) Failure to display a valid license if so required by
60 sections 337.650 to 337.689 or any rule promulgated hereunder;

61 (13) Violation of any professional trust or confidence;

62 (14) Use of any advertisement or solicitation which is false,
63 misleading or deceptive to the general public or persons to whom
64 the advertisement or solicitation is primarily directed;

65 (15) Being guilty of unethical conduct based on the code of
66 ethics of the National Association of Social Workers.

67 3. Any person, organization, association or corporation who
68 reports or provides information to the committee pursuant to the
69 provisions of sections 337.650 to 337.689 and who does so in good
70 faith shall not be subject to an action for civil damages as a result
71 thereof.

72 4. After the filing of such complaint, the proceedings shall
73 be conducted in accordance with the provisions of chapter 621,
74 RSMo. Upon a finding by the administrative hearing commission
75 that the grounds, provided in subsection 2 of this section, for
76 disciplinary action are met, the committee may censure or place the
77 person named in the complaint on probation on such terms and
78 conditions as the committee deems appropriate for a period not to
79 exceed five years, or may suspend, for a period not to exceed three
80 years, or revoke the license.]

[337.686. Persons licensed pursuant to the provisions of
2 sections 337.650 to 337.689 may not disclose any information
3 acquired from persons consulting them in their professional
4 capacity, or be compelled to disclose such information except:

5 (1) With the written consent of the client, or in the case of
6 the client's death or disability, the client's personal representative
7 or other person authorized to sue, or the beneficiary of an
8 insurance policy on the client's life, health or physical condition;

9 (2) When such information pertains to a criminal act;

10 (3) When the person is a child under the age of eighteen
11 years and the information acquired by the licensee indicated that
12 the child was the victim of a crime;

13 (4) When the person waives the privilege by bringing
14 charges against the licensee;

15 (5) When the licensee is called upon to testify in any court
16 or administrative hearings concerning matters of adoption, adult
17 abuse, child abuse, child neglect, or other matters pertaining to the
18 welfare of clients of the licensee; or

19 (6) When the licensee is collaborating or consulting with
20 professional colleagues or an administrative superior on behalf of

21 the client.]

Section B. The repeal and reenactment of sections 317.001, 317.006,
2 317.011, 317.013, 317.015, and 317.018, and the enactment of section 317.019 of
3 section A of this act shall become effective on July 1, 2008.

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Bill

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